

1 SUPREME COURT OF THE STATE OF NEW YORK
2 COUNTY OF RICHMOND - CRIMINAL TERM - PART: 5

-----X

3 THE PEOPLE OF THE STATE OF NEW YORK,

4 -against-

5 ANTHONY RUCANO,

Defendant.

-----X

6 Indict. No. 270/09

18 Richmond Terrace

7 Staten Island, New York

8 Jury Selection

September 10, 2011

9 B E F O R E:

10 HONORABLE STEPHEN J. ROONEY, Justice.

11 (Appearances same as previously noted.)

12 ELAINE FORLENZA, RPR
13 OFFICIAL COURT REPORTER

14 -----
15 THE CLERK: Case on trial continues.

16 People versus Rucano. The defendant's present,

17 the lawyers are present.

18 THE COURT: Bring over another 78. They

19 rounded up 78 people.

20 Juror Number 4 called, spoke to the
21 clerk. Says, I thought I could do this but I have
22 anxiety. He will be here at two. We'll talk to
23 him but keep that in mind. That's Omar Pereyra.
24 We'll get a panel over here.

25 MS. RAJESWARI: Yes.

1 THE CLERK: Bring over the panel.

2 MR. LAMB: While they're doing that may I
3 step down the hall very momentarily?

4 THE COURT: Yes.

5 (Pause in proceedings.)

6 MR. LAMB: While we're waiting may we
7 approach a moment?

8 THE COURT: Sure.

9 (Discussion held off the record at the
10 bench.)

11 THE CLERK: Panel enters.

12 (Prospective jurors entered courtroom.)

13 THE CLERK: Jurors please stand. Raise
14 your right hand to be sworn as prospective jurors.

15 Do you and each of you solemnly swear
16 that you will answer truthfully all questions put
17 to you relative to your qualifications to serve as
18 jurors in this action, so help you God?

19 ALL JURORS: Yes.

20 THE CLERK: Be seated. Turn off your
21 cell phones.

22 THE COURT: Good morning. Welcome to
23 Supreme Court Richmond County. We're in the
24 process of selecting a jury in a criminal case.
25 This case is called the People of the State of New

1 York against Anthony Rucano.

2 Mr. Rucano is known as the defendant in
3 the case. The indictment in this matter involves
4 charges of rape in the first degree, criminal
5 sexual act in the first degree, attempted rape in
6 the first degree, assault in the second degree,
7 tampering with physical evidence, menacing in the
8 second degree, criminal possession of a weapon in
9 the third degree, assault in the third degree,
10 and, finally, criminal mischief in the fourth
11 degree.

12 It's alleged that the events in question
13 took place during July, August and September of
14 2009. And the complaining witness is a woman
15 named Duane Ramos. D U A N E last name Ramos.

16 That's the nature of the charge or
17 charges in the case and the trial is the process
18 by which you will determine if any of the charges
19 are proven by sufficient evidence and I will talk
20 to you about that in a little while.

21 First thing I want to give you a little
22 idea of our schedule. As I said we are in the
23 process of selecting a jury. We selected a number
24 of jurors already. We hope to complete the
25 process with this group and then we will begin the

1 trial. The lawyers and I have discussed this. We
2 expect this would be a week and a half trial. We
3 anticipate that it will be finished and that it
4 will go to the jury so that the jury can begin
5 deliberations in an effort to reach a final
6 unanimous verdict or verdicts no later than
7 September 22nd. That would be a week from next
8 Wednesday. That's the anticipated duration of the
9 trial.

10 In terms of our day to day operations we
11 generally work with our jurors from 9:30 to five.
12 We usually take an hour off for lunch between one
13 and two. I try to avoid going past five during
14 the trial so our jurors can plan their departure
15 from the courthouse.

16 Occasionally we will go past five. If
17 that happens I will give the jury as much advance
18 notice as I can. If that happens it will not be
19 long past five. That's the nature of the
20 day-to-day operation in this and every trial that
21 transpires in this courtroom.

22 I hope you can stay with us through the
23 selection process during which I and the lawyers
24 will be asking questions in an effort to determine
25 whether you could be fair jurors. But I recognize

1 that there may be some scheduling problems for
2 some of you.

3 At this point I am permitted to consider
4 three categories when it comes to excusing people
5 immediately. The first category is health
6 problems. The second category is pressing
7 business reasons or obligations. I emphasize the
8 word pressing and I must say that if you work for
9 a large entity, a large corporation, the City, the
10 State, something of that sort, it's difficult for
11 me to let you go immediately on that basis. Not
12 to say I won't listen to you but keep that in
13 mind. And the third category is pressing personal
14 reasons. You will be the judge of what they are
15 if you have any such reasons.

16 So again I hope you can stay with us
17 through the selection process which will commence
18 shortly. But if you feel you fit into one of
19 those three categories I just mentioned and you
20 would like to speak to me and the lawyers right
21 now about being excused from this matter would you
22 raise your hand please?

23 (Hands raised.)

24 THE COURT: I am going to ask those of
25 you who raised your hand to form a line at the

1 corner of the rail here where the sergeant is.

2 MR. LAMB: Can we approach, Judge?

3 (Discussion held off the record at the
4 bench.)

5 THE COURT: I am going to cut this line
6 off. I am not encouraging you to get onto it but
7 I am going to cut it off.

8 Sergeant, our line is cut off.

9 (The following took place at the
10 sidebar:)

11 THE COURT: For the record the defendant
12 waives his right to be present at the sidebar?

13 MR. LAMB: Correct, Judge.

14 THE CLERK: Tell the judge your name for
15 the record.

16 PROSPECTIVE JUROR: Rosa Espinosa.

17 THE COURT: What's your matter?

18 PROSPECTIVE JUROR: I work for J Crew.
19 But my department is short-staffed. We are short
20 two people and me making off --

21 THE COURT: This is who?

22 PROSPECTIVE JUROR: J Crew.

23 THE COURT: Do they pay you while you're
24 here?

25 PROSPECTIVE JUROR: I don't think so.

1 THE COURT: Counsellors?

2 MR. LAMB: I would consent.

3 MR. KATCHEN: Consent.

4 THE COURT: You are excused.

5 (Prospective juror excused.)

6 (Prospective juror approached.)

7 THE CLERK: Stand here. Tell the judge

8 your name.

9 PROSPECTIVE JUROR: Bob Rule. I recently
10 went on Social Security. I work for a small paint
11 store. I work part-time. If I don't work I don't
12 get paid.

13 THE COURT: Counsellors?

14 MR. LAMB: Consent.

15 MR. KATCHEN: Consent.

16 THE COURT: You are excused.

17 (Prospective juror excused.)

18 (Prospective juror approached.)

19 THE CLERK: Give the judge your name.

20 PROSPECTIVE JUROR: Ann Amato. Two
21 issues. I work for a small doctor's office. I am
22 the bookkeeper. As a matter of fact today is
23 payroll and nobody is getting paid. Second I
24 baby-sit my grandchildren in the afternoon.

25 THE COURT: In the afternoon when?

1 PROSPECTIVE JUROR: What?

2 THE COURT: When in the afternoon?

3 PROSPECTIVE JUROR: After they get out of
4 school.

5 THE COURT: Talking about what time?

6 PROSPECTIVE JUROR: From 2:30.

7 THE COURT: Is there anybody else who
8 could do that?

9 PROSPECTIVE JUROR: No.

10 THE COURT: Counsellors?

11 MR. LAMB: Consent.

12 MR. KATCHEN: Consent.

13 THE COURT: You are excused.

14 (Prospective juror excused.)

15 (Prospective juror approached.)

16 THE CLERK: Please tell the judge your
17 name.

18 PROSPECTIVE JUROR: My name is Kathleen
19 McLoon and my husband is permanently disabled and
20 I am the only one who can stay with him.

21 MR. LAMB: Consent.

22 MR. KATCHEN: Consent.

23 THE COURT: You are excused.

24 PROSPECTIVE JUROR: Thank you very much.

25 (Prospective juror excused.)

1 (Prospective juror approached.)

2 THE CLERK: Tell the judge your name.

3 PROSPECTIVE JUROR: Marcella Barros. I
4 am a principal of a high school. Monday is the
5 first day of school.

6 THE COURT: You work where?

7 PROSPECTIVE JUROR: I am a principal New
8 City public school. I am solely responsible for
9 that.

10 THE COURT: I can't let you go. That
11 doesn't mean you are on the jury but I am going to
12 ask you to stay around and we'll talk to you
13 later.

14 PROSPECTIVE JUROR: All right.

15 (Prospective juror not excused.)

16 (Prospective juror approached.)

17 THE CLERK: Tell the judge your name.

18 PROSPECTIVE JUROR: Kenneth Martin. I am
19 an inspector of the elections next Tuesday from
20 5 a.m. to 9:30 p.m. Primary election.

21 THE COURT: I know about the election.
22 What does the inspector do?

23 PROSPECTIVE JUROR: We run the new
24 machines we're trained on.

25 THE COURT: Are you a full-time employee

1 of the Board of Elections?

2 PROSPECTIVE JUROR: No. Just two days a
3 year.

4 THE COURT: I can't let you go at this
5 point. It doesn't mean you are on the jury but
6 we're going to ask you to stay around to answer a
7 few questions.

8 PROSPECTIVE JUROR: Okay.

9 (Prospective juror not excused.)

10 (Prospective juror approached.)

11 THE CLERK: Please tell the judge your
12 name.

13 PROSPECTIVE JUROR: Your Honor, my name
14 is Maryann Marro. I suffer from high anxiety. I
15 finished therapy last year. I went to therapy
16 three times in my life for fear of being raped
17 because years ago I was touched by a man. I can't
18 listen to the details of this trial.

19 THE COURT: Counsellors?

20 MR. LAMB: Consent.

21 MR. KATCHEN: Consent.

22 THE COURT: You are excused.

23 (Prospective juror excused.)

24 (Prospective juror approached.)

25 THE CLERK: Tell the judge your name.

1 PROSPECTIVE JUROR: Brian Kelly. I have
2 two issues. One is my wife has a lawsuit that's
3 in Civil Court, supposed to start September 20th.

4 THE COURT: September 20th. Okay.

5 PROSPECTIVE JUROR: The other is I am
6 vice president of a company that only has 30
7 people and I have all meetings next week.

8 THE COURT: Do they pay you while you're
9 here?

10 PROSPECTIVE JUROR: I believe so.

11 THE COURT: If they pay you I can't let
12 you go at this point. It doesn't mean you're on
13 the jury but I am going to ask you to stay around.

14 PROSPECTIVE JUROR: What about the other
15 thing that didn't affect?

16 THE COURT: Not as far -- you are not a
17 party.

18 PROSPECTIVE JUROR: I am a witness.

19 THE COURT: Is the trial actually slated
20 to start?

21 PROSPECTIVE JUROR: September 20th was
22 the jury.

23 THE COURT: Has the jury been selected?

24 PROSPECTIVE JUROR: No.

25 THE COURT: Well then you'll have time.

1 PROSPECTIVE JUROR: Okay, thanks. Stay?

2 THE COURT: Yes, you can have a seat.

3 (Prospective juror not excused.)

4 (Prospective juror approached.)

5 THE CLERK: State your name for the
6 record.

7 PROSPECTIVE JUROR: Martin Berman and I
8 have the same situation in Russia with my sister.
9 I am not sure I could decide something like this.

10 THE COURT: Counsellors?

11 MR. LAMB: Consent.

12 MR. KATCHEN: Consent.

13 THE COURT: You are excused.

14 (Prospective juror excused.)

15 (Prospective juror approached.)

16 THE CLERK: Tell the judge your name.

17 PROSPECTIVE JUROR: Jill Malginny. I
18 have a twelve-year-old at home. I work part-time
19 and I'm home when she gets home from school.

20 THE COURT: How old is she?

21 PROSPECTIVE JUROR: Twelve.

22 THE COURT: You want to be home when she
23 gets home?

24 PROSPECTIVE JUROR: I work three days but
25 I am home for her when she gets home.

1 THE COURT: There is nobody else home?

2 PROSPECTIVE JUROR: I can't guarantee for
3 a week and a half.

4 THE COURT: Counsellors?

5 MR. LAMB: Consent.

6 MR. KATCHEN: Consent.

7 THE COURT: You are excused.

8 PROSPECTIVE JUROR: Thank you.

9 (Prospective juror excused.)

10 (Prospective juror approached.)

11 THE CLERK: Give your name to the judge.

12 PROSPECTIVE JUROR: Yasmine Mean. Two
13 reasons. Me and my husband have a small business
14 and I run daily operations. Without me the
15 business would suffer.

16 THE COURT: What kind of business?

17 PROSPECTIVE JUROR: Garage door business.

18 And, two, I have my brother-in-law in
19 prison serving 30 to life, two sentences which I
20 don't believe I could be fair.

21 THE COURT: Counsellors?

22 MR. LAMB: Consent.

23 MR. KATCHEN: Consent.

24 THE COURT: You are excused.

25 PROSPECTIVE JUROR: Thank you.

1 (Prospective juror excused.)

2 (Prospective juror approached.)

3 THE CLERK: Tell the judge your name.

4 PROSPECTIVE JUROR: Thomas Hand. I am a
5 doctor and I have a large volume of patients
6 scheduled with no one else to take care of them
7 over the next.

8 THE COURT: Counsellors?

9 MR. LAMB: Consent.

10 MR. KATCHEN: Yes.

11 THE COURT: You're excused.

12 (Prospective juror excused.)

13 (Prospective juror approached.)

14 PROSPECTIVE JUROR: I am Jamie
15 Montalbano. I am a registered nurse. I work for
16 pediatric subspecialty practice. There is some
17 testing that's done on children. I have no
18 replacement. There is no other nurse that works
19 in the practice.

20 THE COURT: Counsellors?

21 MR. LAMB: Consent.

22 MR. KATCHEN: Yes, consent.

23 THE COURT: You are excused.

24 PROSPECTIVE JUROR: Thank you.

25 (Prospective juror excused.)

1 (Prospective juror approached.)

2 THE CLERK: Give the judge your name.

3 PROSPECTIVE JUROR: My name is Suzie
4 Fazio. My mom going in for total knee
5 replacement. I have to schedule cardiologists.
6 She don't speak English.

7 THE COURT: When are the appointments?

8 PROSPECTIVE JUROR: All next week and she
9 has to take out blood too for the surgery.

10 THE COURT: Counsellors?

11 MR. LAMB: Consent.

12 MR. KATCHEN: Consent.

13 THE COURT: You are excused.

14 (Prospective juror excused.)

15 (Prospective juror approached.)

16 PROSPECTIVE JUROR: Elvis Mostofa. I am
17 starting a new job on Monday.

18 THE COURT: Monday?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Monday is the first day.

21 PROSPECTIVE JUROR: First day not a good
22 way to start.

23 PROSPECTIVE JUROR: I don't think they'd
24 like that.

25 THE COURT: Counsellors?

1 MR. LAMB: Consent.

2 MR. KATCHEN: Consent.

3 THE COURT: You are excused.

4 (Prospective juror excused.)

5 (Prospective juror approached.)

6 THE CLERK: Please tell the judge your
7 name.

8 PROSPECTIVE JUROR: My name is Mo Jang.
9 I am a dentist. I have three boys. I am a sole
10 practitioner.

11 THE COURT: You have a patient schedule?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Counsellors?

14 MR. LAMB: Consent.

15 MR. KATCHEN: Consent.

16 THE COURT: You are excused.

17 (Prospective juror excused.)

18 (Prospective juror approached.)

19 THE CLERK: Tell the judge your name.

20 PROSPECTIVE JUROR: My name is Steven
21 Flores. I have two concerns because of the size
22 of the group that I work with considering the
23 length -- potential length of this trial, that's
24 number one and second of all the nature of the
25 alleged crime.

1 THE COURT: What is it about the nature
2 of the alleged crime?

3 PROSPECTIVE JUROR: I don't know that I
4 could be fair because there is no excuse for
5 sexual violence.

6 THE COURT: Counsellors?

7 MR. LAMB: Consent.

8 MR. KATCHEN: Consent.

9 THE COURT: You are excused.

10 (Prospective juror excused.)

11 (Prospective juror approached.)

12 THE CLERK: Please tell the judge your
13 name.

14 PROSPECTIVE JUROR: Rosemary Adams. I
15 was assaulted.

16 THE COURT: You were?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: How long ago?

19 PROSPECTIVE JUROR: When I was 18.

20 THE COURT: Is this the kind of thing
21 which would prevent you from being able to sit as
22 a fair and impartial juror?

23 PROSPECTIVE JUROR: Definitely.

24 THE COURT: Counsellors?

25 MR. LAMB: Consent.

1 MR. KATCHEN: Consent.

2 THE COURT: You are excused.

3 (Prospective juror excused.)

4 (Prospective juror approached.)

5 THE CLERK: Tell the judge your name.

6 PROSPECTIVE JUROR: John Dufrey. My
7 mother was recently put in a stage four Alzheimers
8 disease. She don't know us anymore and I am not
9 in the frame of mind to do this.

10 THE COURT: Counsellors?

11 MR. LAMB: Consent.

12 MR. KATCHEN: Consent.

13 THE COURT: You are excused.

14 (Prospective juror excused.)

15 (Prospective juror approached.)

16 THE CLERK: Tell the judge your name.

17 PROSPECTIVE JUROR: My name is Catherine
18 Cully. And I work at Cabrini Nursing Home in
19 Manhattan but I'm scheduled to go on vacation with
20 my mom from Thursday until Monday morning.

21 THE COURT: Next Thursday?

22 PROSPECTIVE JUROR: Yes, Thursday coming.

23 THE COURT: Thursday coming up.

24 PROSPECTIVE JUROR: The 16th is my
25 birthday.

1 THE COURT: Counsellors?

2 MR. LAMB: Consent.

3 MR. KATCHEN: Consent.

4 THE COURT: You are excused.

5 (Prospective juror excused.)

6 (Prospective juror approached.)

7 THE CLERK: Tell the judge your name.

8 PROSPECTIVE JUROR: My name is Levy Lula.

9 I don't understand the writing and reading in
10 English.

11 THE COURT: What about verbally, orally?
12 Do you understand English when it's spoken to you?

13 PROSPECTIVE JUROR: Kind of, yeah, but in
14 writing, no. In writing I have a problem.

15 THE COURT: I don't know counsellors if
16 any reading or writing is going to be required
17 here. I suppose if there is documentary evidence
18 maybe some reading. What's your position?

19 MR. KATCHEN: I would consent.

20 MR. LAMB: I consent also.

21 THE COURT: You are excused.

22 (Prospective juror excused.)

23 (Prospective juror approached.)

24 THE CLERK: Tell the judge your name.

25 PROSPECTIVE JUROR: Connie Fusco. I have

1 a restaurant with my sister and I need to be
2 there.

3 THE COURT: You work in a restaurant?

4 PROSPECTIVE JUROR: We own a restaurant
5 me and my sister.

6 MR. LAMB: The two of you co-own it?

7 PROSPECTIVE JUROR: Yes. I have
8 children. If I'm called in she can't be there.

9 THE COURT: Counsellors?

10 MR. LAMB: Consent.

11 MR. KATCHEN: Consent.

12 THE COURT: You are excused.

13 (Prospective juror excused.)

14 (Prospective juror approached.)

15 PROSPECTIVE JUROR: My name is Wilson
16 Maldonado. I not speak English good. I don't
17 understand and my kids are in school.

18 THE COURT: Counsellors?

19 MR. LAMB: Consent.

20 MR. KATCHEN: Consent.

21 THE COURT: You are excused.

22 (Prospective juror excused.)

23 (The following took place in open court:)

24 THE COURT: Thank you for staying with
25 us. I told a few of you I couldn't excuse you at

1 this time. I'm sorry. I have certain guidelines
2 I have to follow. I hope you can appreciate that.

3 I am going to give you a few preliminary
4 remarks, then fill the jury box and begin
5 questioning people.

6 As I said the trial is the process by
7 which we'll determine if any of the charges are
8 proven by sufficient evidence and in that process
9 those of you selected as jurors and I as the judge
10 in the case perform separate functions.

11 Jurors are called upon to determine
12 whether or not the evidence which they will hear
13 and see in this case establishes the defendant's
14 guilt of the charges. In order to do this the
15 jury will have to evaluate all the evidence at the
16 end of the trial in order to determine whether
17 what they've heard from witnesses and seen as
18 exhibits is true and if so what it all means.
19 This is called finding the facts. That's the
20 jury's job. The judge finds no facts at a jury
21 trial.

22 The jury's ultimate decision is called a
23 verdict. The verdict will be either guilty or not
24 guilty or after hearing all of the evidence the
25 jury may find the defendant guilty of some charges

1 and not guilty of others. The attorneys present
2 the evidence. They usually do this by calling
3 witnesses and they may suggest that the jury draw
4 certain conclusions from the evidence. But only
5 the jury can decide what really happened and the
6 verdict as to each of the counts submitted to the
7 jury will remain the jury's decision alone. The
8 judge makes no determination of guilt or lack of
9 guilt at a jury trial.

10 My role at the trial is simply to insure
11 that the jury reaches a verdict in accordance with
12 the law. I will explain the law as to all the
13 issues in this trial. You are not required to
14 know any law in order to be a juror.

15 In order for both sides to receive a fair
16 trial I have to rule on questions concerning the
17 conduct of the trial. Those rulings have nothing
18 to do with whether this defendant is guilty or not
19 guilty. I may also rule on questions concerning
20 what evidence may be considered and if so for what
21 purpose.

22 When I do make a ruling concerning
23 whether the jury may hear testimony or see an
24 exhibit which is offered as evidence, I will be
25 ruling on whether or not the jury's permitted to

1 hear or see this as a matter of law. And,
2 likewise, should the jury be instructed to
3 disregard something they may have heard it will be
4 because that's the law.

5 None of my rulings during this trial or
6 during the jury selection process if I have to
7 make any should be taken by you as indicating
8 whether all or part of what's eventually offered
9 as evidence should be believed or whether the
10 defendant is guilty or not guilty. Again that's
11 solely the jury's job to determine. You do,
12 however, have to accept the law as given to you if
13 both sides are to have a fair trial to which they
14 are entitled. And in this regard I will be
15 discussing some fundamental legal issues with you
16 shortly.

17 In Richmond County the People of the
18 State of New York are represented by the District
19 Attorney Daniel Donovan. Mr. Donovan is
20 represented at this trial by Assistant District
21 Attorneys Anthony Katchen and Raja Rajeswari.
22 They are seated at this table.

23 MR. KATCHEN: Good morning.

24 MS. RAJESWARI: Good morning.

25 THE COURT: The defendant as I already

1 said is Anthony Rucano and Mr. Rucano is
2 represented by his attorney Eugene Lamb. They are
3 seated at this table.

4 THE DEFENDANT: Good morning.

5 MR. LAMB: Good morning.

6 THE COURT: The fact that this action is
7 brought in the name of the people or that the
8 evidence is presented by public officials does not
9 in any way indicate that the public wants a
10 specific verdict. The people of this state are
11 served by whatever verdict is justified by the
12 evidence.

13 Serving on a jury is a vital function for
14 citizens under our system of law. It's also a
15 great responsibility which is to accord both sides
16 a fair trial. In order to do this the jury must
17 be free from any preconceived notions or any
18 sympathies or prejudices which might prevent them
19 from returning a fair and a just verdict based
20 solely on the evidence or lack of evidence.

21 To help insure this our first order of
22 business is to conduct an examination of
23 prospective jurors. I will be asking some
24 questions. When I am finished the attorneys will
25 ask some questions. The purpose of this

1 questioning is simply to determine whether or not
2 you are qualified to sit as a juror in this
3 particular case.

4 A number of you will not be selected.
5 Some of you will be excused because you are not
6 qualified to sit as a matter of law. These people
7 will be excused for cause. Others amongst you
8 will be excused peremptorily which means by one of
9 the attorneys without any cause being given.

10 I want to stress at this point that if
11 you are excused it is not a reflection on you as a
12 citizen or a person. It has nothing to do with
13 your honesty or integrity. Please don't feel
14 insulted if you are excused. If you are excused
15 it is simply as a result of a determination made
16 by the parties or by me that you were not to sit
17 as a juror in this particular case.

18 Should I or the lawyers ask you any
19 questions you would rather not answer in open
20 court just raise your hand and tell us and we'll
21 step to the side and discuss it at a sidebar.

22 So at this point the clerk is going to
23 call sixteen names at random from the drum. If
24 you hear your name called just step up and have a
25 seat where the officer directs you.

1 THE CLERK: Step up. Ursula Zalewska.
2 Z A L E W S K A.
3 Seat two, Kenneth Martin. M A R T I N.
4 Seat three, Joseph Di Francesco.
5 D I F R A N C E S C O.
6 Seat four, Christine Hyrick.
7 H Y R I C K.
8 Seat five, Carlos Jusino. J U S I N O.
9 Seat six, Denise Bradshaw.
10 B R A D S H A W.
11 Seat seven, Felicia Gordon. G O R D O N.
12 Seat eight, Bruno Cicala. C I C A L A.
13 Seat nine, Vishny Sawh. S A W H.
14 Seat ten, Melba Centeno. C E N T E N O.
15 Eleven, step up. Bashir Munshi.
16 M U N S H I.
17 Seat twelve, Suzanna Cacici.
18 C A C I C I.
19 Seat thirteen, Daniel Nuzzolo.
20 N U Z Z O L O.
21 Seat fourteen is Victoria Angelino.
22 A N G E L I N O.
23 Fifteen, step up. Gregory Nichols.
24 N I C H O L S.
25 Seat sixteen, Richard Fennell.

1 F E N N E L L.

2 Sixteen prospective jurors seated.

3 THE COURT: I will be directing my
4 questions to the people in the jury box. It would
5 help if the rest of you listened. I will be
6 liable to speak to a few more of before the day is
7 out. It would go a lot more quicker if you
8 listened to the questions.

9 I have just outlined for you the nature
10 of the charges in the case and I know I didn't
11 give you an awful lot of information, but my
12 question is based on the little bit that I told
13 you. Do any of you think you know anything about
14 this case? You think you've heard anything about
15 it or talked to anyone about it?

16 I have introduced the lawyers and the
17 defendant to you. Do any of you know any of them?

18 Let me read to you a list of potential
19 witnesses. My reading these names does not impose
20 on anyone the burden of calling these people but
21 these are people who may testify at the trial and
22 I would like to know if you recognize any of the
23 names. I will read them and you can tell me.

24 Duane Ramos. D U A N E. Last name
25 R A M O S. Detective William Wasson. Police

1 Officer Albert Lloyd. A criminalist from the
2 medical examiner's office named Jennifer King.
3 Dr. Nancy Needell. N E E D E L L. Stefania Mach.
4 M A C H. Detective investigator Margaret
5 Eng-Wallace. The last name is hyphenated. It's
6 E N G dash Wallace.

7 Rina Ganeles G A N E L E S, a physician
8 assistant. A court clerk named Steven Paradiso.
9 Police Officer Sharon Brown. Detective
10 Christopher Connolly. Dr. Michael Brustein.
11 B R U S T E I N. Steve Frankl. F R A N K L.
12 Frank Ortiz. O R T I Z. Diane Smith and Police
13 Officer Monkai Lewis. The first name is
14 M O N K A I. Last name is Lewis L E W I S.

15 Do any of you recognize any of those
16 names?

17 Ms. Centeno, who do you know?

18 PROSPECTIVE JUROR: Wasson. I might know
19 William Wasson.

20 THE COURT: A detective?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: How would you know him?

23 PROSPECTIVE JUROR: I work in law
24 enforcement.

25 THE COURT: What do you do?

1 PROSPECTIVE JUROR: I am a detective.

2 THE COURT: You are. Have you ever
3 worked with Detective Wasson?

4 PROSPECTIVE JUROR: If it's the one I
5 might have worked in Staten Island narcotics, yes.

6 THE COURT: How long have you known him
7 if it's the same person?

8 PROSPECTIVE JUROR: I just started
9 working Staten Island narcotics four years. The
10 first year I was here for a couple of months.

11 THE COURT: So what would you call him?
12 Acquaintance at best?

13 PROSPECTIVE JUROR: Yes. We didn't hang
14 out together. We just worked in the same office.

15 THE COURT: If you were a juror in this
16 case and he were called as a witness would you be
17 able to evaluate his credibility and reliability
18 fairly and objectively?

19 PROSPECTIVE JUROR: I feel I would, yes.

20 THE COURT: Thank you.

21 Anyone else recognize any of the names?

22 Okay. My next series of questions I will
23 direct to all of you. If you have an affirmative
24 answer, just raise your hand up and I will get to
25 you. I will jump around, but I will get to you.

1 First question. Are any of you or anyone
2 close to you and by close to you I mean close
3 friend or relative involved in law enforcement in
4 any way? Ms. Centeno already answered this.

5 Anybody else? Mr. Nichols.

6 PROSPECTIVE JUROR: First cousin
7 detective in Brooklyn, retired.

8 THE COURT: Anything about his former
9 occupation that would prevent you from being fair?

10 PROSPECTIVE JUROR: No.

11 THE COURT: Thank you. Anyone else on
12 this question? Law enforcement.

13 Ms. Centeno, if you were selected as a
14 juror forgetting what I asked you in terms of
15 Detective Wasson, do you think you could be fair
16 and impartial and objective?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Thank you.

19 Yes, sir. Mr. Cicala.

20 PROSPECTIVE JUROR: I don't know. My
21 son-in-law's parents are both detectives.

22 THE COURT: Your son-in-law?

23 PROSPECTIVE JUROR: Parents are both
24 detectives, but they're retired.

25 THE COURT: They're retired. Anything

1 about their former occupations that would have any
2 bearing here on your mind?

3 PROSPECTIVE JUROR: No.

4 THE COURT: Anyone else law enforcement
5 question?

6 Are any of you or anyone close to you to
7 your knowledge involved in the legal field? A
8 lawyer, paralegal, employee of a law firm or
9 prosecutor's office anything of that nature?

10 Ms. Cacici.

11 PROSPECTIVE JUROR: My mother is a
12 paralegal secretary.

13 THE COURT: Does she work for a law firm?

14 PROSPECTIVE JUROR: Yes. Brown & Wood.

15 THE COURT: Do you know if that firm
16 practices any criminal law?

17 PROSPECTIVE JUROR: Not that I know of.

18 THE COURT: Anything about your mother's
19 occupation that would prevent you from being a
20 fair juror?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Anyone else on this question?

23 Have any of you or anyone close to you to
24 your knowledge ever been the victim of a crime?

25 Victim of a crime, you or anyone close to

1 you?

2 Mr. Martin.

3 PROSPECTIVE JUROR: My house was robbed
4 one time while we were on vacation. That was back
5 in the 80's.

6 THE COURT: Back in the 80's. Was
7 anybody arrested?

8 PROSPECTIVE JUROR: I don't think so. I
9 never heard of anybody.

10 THE COURT: Is there anything --

11 PROSPECTIVE JUROR: We had suspicions,
12 but I don't think there was any truth.

13 THE COURT: Anything about that
14 experience that would prevent you from being a
15 fair juror in this case?

16 PROSPECTIVE JUROR: No, I don't think so.

17 THE COURT: Anyone else?

18 I will remind you we can discuss anything
19 privately if you prefer and my next question is
20 has any of you or anyone close to you ever been a
21 defendant in any kind of a criminal proceeding?
22 Nobody on that.

23 Have any of you ever been a witness in
24 any kind of a courtroom proceeding?

25 Have any of you ever been a litigant that

1 is a plaintiff or a defendant in any kind of a
2 civil lawsuit or action?

3 Have any of you ever served on a jury
4 before?

5 Mr. Fennell, when please?

6 PROSPECTIVE JUROR: I don't remember.

7 THE COURT: Approximately.

8 PROSPECTIVE JUROR: About twenty years
9 ago.

10 THE COURT: Do you remember if it was a
11 civil or criminal case?

12 PROSPECTIVE JUROR: It was a criminal
13 case.

14 THE COURT: Don't tell us how it ended up
15 but did the jury reach a verdict?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Was there anything about that
18 experience that would prevent you from being able
19 to do it again?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: When I say do it again I mean
22 sit here as a juror.

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: You had a bad experience?

25 PROSPECTIVE JUROR: I felt that the

1 jurors weren't paying attention to what was going
2 on in the case.

3 THE COURT: You think that would affect
4 your ability to sit as a juror in this case?

5 PROSPECTIVE JUROR: I would think after
6 awhile people get tired they don't pay attention
7 and it was just frustrating telling people, you
8 know, dealing with the case with people who just
9 sat there. You know what I am trying to say?

10 THE COURT: Bottom line I don't want to
11 put words in your mouth are you telling me because
12 of that experience --

13 PROSPECTIVE JUROR: I am just saying it
14 was a bad experience because I was frustrated
15 people sitting there the whole time and not paying
16 attention and then you're like, we just sat
17 through it, you weren't listening to the lawyer,
18 so it was just a frustrating experience.

19 THE COURT: If you were selected here
20 could you put that experience out of your mind and
21 deal with this case on its own merits?

22 PROSPECTIVE JUROR: I don't think so.

23 THE COURT: Okay, thanks.

24 Anyone else with jury experience?

25 Mr. Martin.

1 PROSPECTIVE JUROR: I was on a civil jury
2 in the 90's sometime, but it didn't go to
3 completion. It was settled.

4 THE COURT: Was there anything about that
5 experience that would prevent you from being about
6 to sit as a juror this case?

7 PROSPECTIVE JUROR: I don't really think
8 so.

9 THE COURT: Anyone else?
10 Ms. Angelino.

11 PROSPECTIVE JUROR: About five years ago
12 but it was settled.

13 THE COURT: It was settled. Anything
14 about that experience that would prevent you from
15 sitting as a juror in this case?

16 PROSPECTIVE JUROR: No.

17 THE COURT: That's a no for the record.
18 She has to write it down.

19 PROSPECTIVE JUROR: No.

20 THE COURT: Anyone else?

21 Have any of you ever served on a Grand
22 Jury?

23 What I am going to do at this point is go
24 down the list one through sixteen and if you're
25 employed I would like to know what type of work

1 you do. I don't need to know for whom you work.
2 I would like to know what type of work you do if
3 you're employed. Sometimes occupations help us in
4 jury selection. If you are not employed just tell
5 me that. If you are retired please tell me what
6 you retired from.

7 Ms. Zalewska, are you working?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: What do you do?

10 PROSPECTIVE JUROR: Supervisor.

11 THE COURT: A supervisor. What kind of
12 an organization?

13 PROSPECTIVE JUROR: This is working with
14 mentally challenged adults.

15 THE COURT: Could you say that again?

16 PROSPECTIVE JUROR: I am a supervisor at
17 Daytop agency working with mentally challenged
18 adults.

19 MR. LAMB: Okay.

20 THE COURT: Mr. Martin.

21 PROSPECTIVE JUROR: I am a retired
22 chemist.

23 THE COURT: Thank you.

24 Mr. Di Francesco.

25 PROSPECTIVE JUROR: I have two jobs,

1 bakery manager and merchandiser.

2 THE COURT: Thank you.

3 Ms. Hyrick.

4 PROSPECTIVE JUROR: I work with the
5 mentally disabled.

6 THE COURT: Thank you.

7 Mr. Jusino.

8 PROSPECTIVE JUROR: I'm an account
9 executive for skin care brand retail.

10 THE COURT: Thank you.

11 Ms. Bradshaw.

12 PROSPECTIVE JUROR: Head chef in a
13 nursing home.

14 THE COURT: Chef in a nursing home.

15 PROSPECTIVE JUROR: I work in building
16 services at St. Vincent's.

17 THE COURT: Thank you.

18 Ms. Gordon.

19 PROSPECTIVE JUROR: Gym team leader for
20 several group homes that deal with the
21 developmentally disabled.

22 THE COURT: Thank you.

23 Mr. Cicala.

24 PROSPECTIVE JUROR: I am unemployed at
25 the moment.

1 THE COURT: Okay, thank you.

2 Mr. Fennell.

3 PROSPECTIVE JUROR: New York City
4 sanitation.

5 THE COURT: Thank you.

6 Mr. Nichols.

7 PROSPECTIVE JUROR: New York City
8 department of environment protection.

9 THE COURT: Thank you.

10 Ms. Angelino.

11 PROSPECTIVE JUROR: Accounting.

12 THE COURT: Thank you.

13 Mr. Nuzzolo.

14 PROSPECTIVE JUROR: Education, guidance
15 counsellor.

16 THE COURT: Thanks.

17 Ms. Cacici.

18 PROSPECTIVE JUROR: Registered client
19 services in the financial services agency.

20 THE COURT: Thank you.

21 Mr. Munshi.

22 PROSPECTIVE JUROR: Pharmaceutical
23 company.

24 THE COURT: Thank you.

25 Ms. Centeno.

1 PROSPECTIVE JUROR: New York City police
2 Department.

3 THE COURT: You told me that and I
4 already have forgotten.

5 And Ms. Sawh.

6 PROSPECTIVE JUROR: I work with Comfort
7 Inn.

8 THE COURT: Comfort Inn.

9 PROSPECTIVE JUROR: Breakfast and
10 housekeeping.

11 THE COURT: Thank you all for that
12 information.

13 What I am going to do at this point is
14 discuss several fundamental legal principles that
15 apply in all criminal cases. As I said a little
16 while ago you don't have to know any law in order
17 to be a juror. It is my job to explain the law to
18 the jurors. You do have to agree to accept the
19 law if both sides are to have a fair trial to
20 which they are entitled.

21 So I am going to discuss several
22 fundamental legal principles that apply in all
23 criminal trials and ask if you can promise us you
24 will accept these principles. If you feel you
25 cannot accept any of these fundamental principles

1 please tell me. It is important we know how you
2 feel about it.

3 You heard me mention a moment ago the
4 indictment. The indictment is the instrument that
5 contains the charges in the case. The indictment
6 is not evidence. The mere fact the defendant has
7 been indicted is not evidence of anything. In
8 particular it is not evidence of guilt.

9 Should you be chosen to serve as a trial
10 juror our law requires that you decide the case
11 wholly and solely on the evidence. And since it
12 is our rule of law that an indictment is evidence
13 of nothing I ask if you can promise us that you
14 will follow and accept this rule in our law.

15 Anyone amongst you who cannot promise us
16 you will accept this rule in our criminal law?

17 It is our law the final verdict or
18 verdicts in a criminal case must be unanimous.
19 Twelve jurors seldom agree immediately and you
20 will therefore if selected be called upon to
21 deliberate at the end of the trial in an effort to
22 reach a final unanimous verdict or verdicts.

23 You and eleven other people would go to
24 the jury room and discuss the case in an effort it
25 reason together and reach a final unanimous

1 verdict or verdicts.

2 Do any of you feel you could not
3 deliberate with eleven other people if called upon
4 to do so?

5 Under our law everyone accused of a crime
6 and brought to trial is presumed innocent unless
7 or until proved guilty beyond a reasonable doubt.
8 The defendant in this case is presumed innocent
9 and to put this another way the defendant is never
10 required to prove his innocence. On the contrary
11 the People represented by the District Attorney
12 having accused the defendant of the crimes charged
13 have the burden of proving him guilty beyond a
14 reasonable doubt. The People carry this burden of
15 proof throughout the trial and it never shifts.
16 It always remains on the people and the
17 presumption of innocence remains with every
18 defendant throughout every criminal trial.

19 Is there anyone amongst you who cannot
20 now in your own mind grant the defendant this
21 presumption of innocence?

22 On the burden of proof issue again as I
23 said in a criminal case the burden of proof is
24 entirely on the People and remains on them
25 throughout the trial. A defendant is not required

1 to prove anything nor is a defendant required to
2 disprove anything. As I say the entire burden of
3 proof is on the People, that is the District
4 Attorney and remains on them throughout the trial.

5 Is there anyone amongst you who cannot
6 accept this rule in our criminal law?

7 If a defendant does not testify in a
8 criminal trial that is not a factor from which any
9 inference unfavorable to such defendant may be
10 drawn. Is there anybody who cannot accept this
11 fundamental rule in our criminal law?

12 Okay. What I am going to do at this
13 point is discuss with you the burden of proof
14 required for conviction in every criminal case.
15 This burden of proof is called proof of guilt
16 beyond a reasonable doubt. That standard does not
17 require the People to prove the defendant guilty
18 beyond all possibility of doubt or beyond a shadow
19 of a doubt. It does require them to establish the
20 defendant's guilt beyond a reasonable doubt.

21 Our law, therefore, requires that before
22 a jury may convict a defendant each juror must be
23 satisfied that the credible evidence is sufficient
24 to convince him or her beyond a reasonable doubt
25 that the defendant is in fact guilty. The

1 evidence must satisfy the jury beyond a reasonable
2 doubt that the defendant is in fact the person who
3 committed the crime or crimes charged and the
4 evidence must also establish beyond a reasonable
5 doubt each and every essential element of a
6 charged crime. I define the elements for the jury
7 at the end of the trial.

8 Now what does our law mean when it
9 requires proof of guilt beyond a reasonable doubt?
10 A doubt of a defendant's guilt to be a reasonable
11 doubt must be a doubt for which some reason can be
12 given. The doubt to be reasonable must,
13 therefore, arise because of the nature and quality
14 of the evidence or from the lack or insufficiency
15 of the evidence. The doubt to be a reasonable
16 doubt should be one which a reasonable person
17 acting in a matter of this importance would be
18 likely to entertain because of the evidence or
19 because of the lack or insufficiency of the
20 evidence.

21 A doubt of guilt is not reasonable if
22 instead of being based on the nature and quality
23 of the evidence or insufficiency of the evidence
24 it's based on some guess or whim or speculation
25 unrelated to the evidence.

1 Also a doubt of guilt is not a reasonable
2 doubt if it's based merely on simply for a
3 defendant or from a mere desire by a juror to
4 avoid a disagreeable duty. I repeat a doubt of
5 the defendant's guilt to be reasonable doubt must
6 arise from the nature and quality of the evidence
7 or from the lack or insufficiency of the evidence.

8 Therefore, the first duty of each juror
9 is to consider and weigh all the evidence and
10 decide what evidence that juror believes is
11 credible and worthy of his or her consideration.
12 The next duty of each juror is to determine
13 whether that juror has in fact a reasonable doubt
14 of the defendant's guilt as that term is defined
15 in our law.

16 A reasonable doubt our law says is a
17 actual doubt one which you're conscious of having
18 in your mind after you considered all the
19 evidence. If after doing so you than feel
20 uncertain and not fully convinced of the
21 defendant's guilt, and you are also satisfied that
22 in entertaining such a doubt you are acting a
23 reasonable person should act in a matter of this
24 importance, than that's a reasonable doubt to
25 which every defendant is entitled to the benefit.

1 I repeat, it's the duty of each juror
2 carefully to review, weigh and consider all the
3 evidence. If after doing so you find that the
4 People have not proved the defendant's guilt
5 beyond a reasonable doubt as I have defined the
6 term, then you must find the defendant not guilty.

7 On the other hand, if you are satisfied
8 that the People have proved the defendant's guilt
9 beyond a reasonable doubt as I defined the term,
10 then you must find the defendant guilty.

11 The question is can you promise us now if
12 you are selected as a juror in this case you will
13 in your final deliberations follow and apply the
14 standard of proof that I have defined for you,
15 that is proof beyond a reasonable doubt? Is there
16 anybody who cannot make us that promise?

17 Thank you. I am required to advise
18 prospective jurors that if selected you may not
19 during your deliberations consider the subject of
20 punishment. Sentencing if there is to be any lies
21 solely within the exclusive province of the Court.
22 The jury has no role to play in that. The jury is
23 not permitted to consider the possibility of
24 punishment or penalty in their deliberations and
25 the jury may not include any sentencing

1 recommendation in their verdict.

2 The trial jury is the sole and exclusive
3 judge of the facts and the facts only. The Court
4 is the sole and exclusive judge of the law and of
5 any sentence to be imposed following a verdict.

6 Will you promise us if selected here you
7 will render your verdict free from fear, favor or
8 sympathy and without considering any possibility
9 of sentence or punishment? Is there anybody who
10 cannot make us that promise?

11 And the last issue I will discuss with
12 you has to do with police testimony. As you know
13 from the witness list I read it's likely the jury
14 in this case will hear from police witnesses.
15 Police officers take the same oath as anyone else.
16 The mere fact a witness is a police officer does
17 not make that witness any more or any less
18 credible.

19 Is there anyone amongst you who has any
20 feelings about the police or has had any
21 experiences with the police which would lead you
22 in your judgment to give a police officer's
23 testimony greater or lesser weight than anyone
24 else's merely because of the officer's occupation?
25 Anybody have that feeling one way or the other?

1 Ms. Centeno, do you think you could
2 evaluate a police witness as you would anyone
3 else?

4 PROSPECTIVE JUROR: Yes.

5 THE COURT: Thank you all very much. I
6 will turn this over to the lawyers. If they ask
7 you anything you want to discuss privately we'll
8 step over to the side.

9 MS. RAJESWARI: Good morning, ladies and
10 gentlemen of the jury. My name is Raja Rajeswari,
11 along with Assistant District Attorney Anthony
12 Katchen. We represent the People of the State of
13 New York and we are going to be presenting this
14 case to you.

15 Now this is the portion of our jury
16 selection where we get to ask you some questions.
17 Then Mr. Lamb gets to do the same. Our purpose
18 here again is not to pry or embarrass you. As
19 Justice Rooney said if you need to speak to us in
20 private you just have to let us know.

21 Both the People and the defense at this
22 time are looking to pick twelve jurors who can
23 assure us that they will be fair and impartial to
24 sit in this particular case. So please be as
25 honest as you can. And at this time let me ask

1 you a few general questions. After that I would
2 like to go to some specific questions.

3 We can just go in order.

4 Miss, how do you pronounce your last
5 name?

6 PROSPECTIVE JUROR: Zalewska.

7 THE COURT: Are you married?

8 PROSPECTIVE JUROR: Divorced.

9 MS. RAJESWARI: Do you have any children?

10 PROSPECTIVE JUROR: One child.

11 MS. RAJESWARI: Do you live in a private
12 house or an apartment?

13 PROSPECTIVE JUROR: In an apartment.

14 MS. RAJESWARI: Mr. Di Francesco, how
15 about you, sir?

16 PROSPECTIVE JUROR: Married, three kids.

17 THE COURT: Do you live in a private
18 house?

19 PROSPECTIVE JUROR: Private house.

20 MS. RAJESWARI: Ms. Hyrick.

21 PROSPECTIVE JUROR: Myrick, it's supposed
22 to be.

23 MS. RAJESWARI: Myrick. What about you?

24 PROSPECTIVE JUROR: Yes. Apartment,
25 children.

1 MS. RAJESWARI: Are you married or
2 single?

3 PROSPECTIVE JUROR: Not married.

4 MS. RAJESWARI: Mr. Jusino.

5 PROSPECTIVE JUROR: I am not married. I
6 live in a private home and no children.

7 MS. RAJESWARI: What about you,
8 Ms. Bradshaw?

9 PROSPECTIVE JUROR: Divorced, three kids,
10 private house.

11 MS. RAJESWARI: Ms. Gordon.

12 PROSPECTIVE JUROR: Single. One
13 daughter. Live in a private house.

14 MS. RAJESWARI: Mr. Nichols.

15 PROSPECTIVE JUROR: Married with a child
16 and private house.

17 MS. RAJESWARI: Ms. Angelino.

18 PROSPECTIVE JUROR: Single, living in an
19 apartment.

20 MR. LAMB: I'm sorry?

21 PROSPECTIVE JUROR: Single in an
22 apartment.

23 MS. RAJESWARI: Do you have any children?

24 PROSPECTIVE JUROR: No.

25 MS RAJESWARI: What about you, Mr.

1 Nuzzolo?

2 PROSPECTIVE JUROR: One child. Live in a
3 private house.

4 MS. RAJESWARI: Ms. Cacici.

5 PROSPECTIVE JUROR: Married five months,
6 pregnant and live in a private house.

7 MS. RAJESWARI: Ms. Munshi.

8 PROSPECTIVE JUROR: Married, two kids and
9 I live in a private house.

10 MS. RAJESWARI: Ms. Centeno.

11 PROSPECTIVE JUROR: Common-law, private
12 house, one child.

13 MS. RAJESWARI: Ms. Sawh.

14 PROSPECTIVE JUROR: Married, no kids,
15 private home.

16 MS. RAJESWARI: Okay. I am not going to
17 get to speak to everybody because of time
18 constraints but I will try to get to as many of
19 you as I can.

20 The judge will already told you this case
21 involves allegations of rape and criminal sexual
22 acts and other charges.

23 Ms. Gordon, when you hear the word rape
24 do you think rape only happens between strangers?

25 PROSPECTIVE JUROR: No.

1 MS. RAJESWARI: Can rape happen in a
2 domestic situation where parties know each other?

3 PROSPECTIVE JUROR: Yes.

4 MS. RAJESWARI: Does everybody here agree
5 with Ms. Gordon that a rape can occur between two
6 people who actually know each other? It doesn't
7 have to be strangers? Does everybody here agree
8 with that?

9 Ms. Zalewska, what about you, ma'am?

10 PROSPECTIVE JUROR: I agree.

11 MS. RAJESWARI: Ms. Centeno.

12 PROSPECTIVE JUROR: I agree.

13 MS. RAJESWARI: Now if the parties are
14 known to each other, are in a relationship because
15 they are either married or they're engaged or
16 they're common-law, does that mean that the woman
17 does not have a right to say no? What do you
18 think?

19 MR. LAMB: Objection, Judge.

20 THE COURT: Overruled.

21 PROSPECTIVE JUROR: I'm sorry, could you
22 repeat?

23 MS. RAJESWARI: Does that mean she has a
24 right to say no because it's somebody she knows?

25 PROSPECTIVE JUROR: She has a right to

1 say no.

2 MS. RAJESWARI: Does everybody agree with
3 that? What about you, sir?

4 PROSPECTIVE JUROR: Yes.

5 MS. RAJESWARI: What do you think?

6 PROSPECTIVE JUROR: I don't know. Goes
7 both ways.

8 MS. RAJESWARI: We had Mr. Fennell tell
9 you he was a juror in a case and he didn't have a
10 great experience because the jury wasn't paying
11 attention. If you are all picked -- any one of
12 you are picked as a juror can you assure us that
13 you will listen and pay attention to both the
14 people and to the defense until all the witnesses
15 comes and give you their testimony?

16 Can I have everybody assurance?

17 PROSPECTIVE JURORS: Yes.

18 MS. RAJESWARI: Mr. Fennell, you think
19 you can sit on this case?

20 PROSPECTIVE JUROR: I could be partial.

21 MS. RAJESWARI: You could be?

22 PROSPECTIVE JUROR: Partial.

23 THE COURT: You mean impartial.

24 PROSPECTIVE JUROR: Impartial, I'm sorry.

25 THE COURT: So, Mr. Fennell, just so I

1 understand if you were on a jury and everybody was
2 paying attention that would work for you?

3 PROSPECTIVE JUROR: It was just a bad
4 experience.

5 MS. RAJESWARI: You think you could be
6 fair and impartial.

7 Everybody here agree with Mr. Fennell?
8 This is an important case to the people and the
9 defense. If you were picked as a juror you will
10 pay attention to all the witnesses and listen to
11 Justice Rooney's instruction? Can I have
12 everybody's assurance?

13 PROSPECTIVE JUROR: Yes.

14 MS. RAJESWARI: Is there anybody who
15 can't give me that assurance? What about you?

16 PROSPECTIVE JUROR: I could be impartial.
17 No problem.

18 MS. RAJESWARI: Now, Mr. Jusino.

19 PROSPECTIVE JUROR: Yes.

20 MS. RAJESWARI: If you hear that a victim
21 of rape didn't immediately leave the situation,
22 does that automatically mean for you that the rape
23 didn't occur?

24 PROSPECTIVE JUROR: No.

25 MS. RAJESWARI: Ms. Angelina, if you hear

1 that someone who was raped didn't immediately
2 leave the situation but rather stood in that
3 situation, would you still keep an open mind and
4 listen to them?

5 PROSPECTIVE JUROR: Yes.

6 MS. RAJESWARI: And if the victim or the
7 witness in the case gives you reasons for why a
8 person possibly stayed could you keep an open mind
9 and listen to the person?

10 PROSPECTIVE JUROR: Yes.

11 MS. RAJESWARI: What about you,
12 Mr. Munshi? Can you listen to her and see why the
13 person didn't leave?

14 PROSPECTIVE JUROR: Yes.

15 MS. RAJESWARI: Ma'am, what about you?

16 PROSPECTIVE JUROR: Yes.

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Can you give me that
19 assurance, you will listen to her as to why?

20 PROSPECTIVE JUROR: I will listen but I
21 would have questioned why immediately didn't leave
22 the situation.

23 MS. RAJESWARI: That's a natural
24 reaction. I understand that. Maybe you or I
25 would have reacted differently to the situation.

1 But you will hear the person did not leave or did
2 not tell anybody immediately. Would you still
3 keep an open mind and listen to what the person
4 says?

5 PROSPECTIVE JUROR: I would be a little
6 hesitant about it. I mean I would listen but I
7 mean if something like that occurs, I mean I think
8 they should go right away and tell somebody.
9 That's my impression.

10 MS. RAJESWARI: That's why we pick the
11 jurors because you come with your own perceptions
12 and your life experiences. We understand that.
13 You would listen but you would have some
14 questions.

15 PROSPECTIVE JUROR: Yes.

16 MS. RAJESWARI: Do you agree? You would
17 have some questions?

18 PROSPECTIVE JUROR: I mean I will have
19 some questions but this doesn't mean that I will
20 listen with open mind.

21 MS. RAJESWARI: That was my question.
22 Does anybody here agree with Mr. Di Francesco?
23 You would have some issues with that? Can you
24 keep an open mind and listen to the victim?

25 PROSPECTIVE JUROR: Yes.

1 PROSPECTIVE JUROR: Yes.

2 MS. RAJESWARI: What about you?

3 PROSPECTIVE JUROR: I would have some
4 issues with that circumstance.

5 MS. RAJESWARI: You would have some
6 issues with that?

7 PROSPECTIVE JUROR: Yes.

8 MS. RAJESWARI: Ma'am?

9 PROSPECTIVE JUROR: I would listen.

10 MS. RAJESWARI: Now Justice Rooney will
11 define the law for you. He is the judge and he
12 will tell you what the law is. And when you take
13 an oath as a juror you have to follow the law.
14 But we also want you to obviously bring your
15 common sense, your life experiences with you.

16 This is not television. This is not, you
17 know, one of the shows we watch on TV. This is
18 real life and when you are picked as jurors you
19 are asked to bring your common sense.

20 In this case if you have some experts, if
21 you hear from some experts witness who are
22 qualified as experts, can I have your assurance
23 you will listen to what the experts have to say in
24 their field of expertise and connect it with the
25 victim's testimony and pay attention to it? Is

1 that an issue for anybody?

2 Ma'am, what about you?

3 PROSPECTIVE JUROR: Yes, I would be able
4 to listen to the expert and understand what he is
5 explaining or why like you say in a situation a
6 person who stays in a relationship, a person
7 doesn't stay in a relationship and reasons why.

8 MS. RAJESWARI: You think you could keep
9 an open mind listen to the expert?

10 PROSPECTIVE JUROR: Yes.

11 MS. RAJESWARI: Everybody agree with
12 Ms. Centeno? If there is anybody who doesn't
13 agree. Please tell us. This is the time to let
14 us know. After you are picked as a juror it is
15 too late to come forward. How about you?

16 PROSPECTIVE JUROR: I would be fair.

17 MS. RAJESWARI: Ma'am, which one of you
18 -- you had three children?

19 PROSPECTIVE JUROR: Yes.

20 MS. RAJESWARI: How old are your
21 children?

22 PROSPECTIVE JUROR: 26, 22 and 14.

23 MS. RAJESWARI: They're old enough when
24 they were young and your children fought before.

25 PROSPECTIVE JUROR: Yes.

1 MS. RAJESWARI: If there is a fight
2 between two children and you are called to settle
3 that fight, right? How do you decide who was
4 telling the truth and who is not telling the
5 truth?

6 PROSPECTIVE JUROR: If --

7 MS. RAJESWARI: If you weren't there, you
8 had to come and decide, how would you tell who is
9 telling you the truth?

10 PROSPECTIVE JUROR: Based on the fight
11 itself, how the fight ensued.

12 MS. RAJESWARI: Yes.

13 PROSPECTIVE JUROR: How bad one was hurt
14 over the other one.

15 MS. RAJESWARI: Of course.

16 PROSPECTIVE JUROR: Then I will make my
17 decision who started it, who was the more
18 aggressive one.

19 MS. RAJESWARI: So you would listen to
20 both of them and you would assess their
21 credibility?

22 PROSPECTIVE JUROR: Um-hum.

23 MS. RAJESWARI: That's essentially what
24 you're doing, right? That's what you're going to
25 be asked to do as a juror. You are going to be

1 asked to assess the credibility of witnesses.
2 It's not a new and different thing. You have been
3 doing that all your lives. If you had brothers or
4 sisters, if you have children, if you have nieces,
5 if you have nephews, if you have families, you try
6 to say who was telling you the truth. You decide
7 that.

8 So if you are picked as a juror in this
9 case, Mr. Nichols, can I have your assurance that
10 you will not only keep an own mind but you will
11 bring your life experiences with you and listen to
12 everybody and see who has a motive to lie or who
13 has a motive to tell the truth and assess
14 credibility?

15 PROSPECTIVE JUROR: Yes.

16 MS. RAJESWARI: Can you do that, sir?

17 PROSPECTIVE JUROR: Yes.

18 MS. RAJESWARI: Everybody agree with
19 Mr. Nichols?

20 How about you, Mr. Munshi? Can you do
21 that for us?

22 PROSPECTIVE JUROR: Yes.

23 MS. RAJESWARI: Ma'am?

24 PROSPECTIVE JUROR: Yes.

25 MS. RAJESWARI: Anybody disagree?

1 PROSPECTIVE JUROR: I agree.

2 MS. RAJESWARI: You will listen to motive
3 and see if you can assess credibility?

4 PROSPECTIVE JUROR: Yes.

5 MS. RAJESWARI: Anybody here who cannot
6 give us their assurance?

7 You are going to hear the standard, the
8 judge has already explained it to you so I am not
9 going to go over it in detail. But I want to make
10 sure of one thing.

11 The judge has mentioned that the burden
12 of proof rests with the People. It rests with
13 this table. And it's a burden of proof that we
14 will prove to you beyond a reasonable doubt. It
15 never, never ever shifts to the defendant.
16 Defendant doesn't have to prove anything. But the
17 also defined burden of proof to you.

18 Beyond a reasonable doubt is the standard
19 we have to prove. It's not beyond a shadow of a
20 doubt. It's not beyond all doubt. It's a not
21 beyond a moral certainty. We don't have to prove
22 beyond all doubt.

23 If you are selected as a juror can I have
24 your assurance, Ms. Angelina, that you will only
25 hold the People to the standard that Justice

1 Rooney asked you to?

2 PROSPECTIVE JUROR: Yes.

3 MS. RAJESWARI: And not to a much higher
4 standard because it's a rape case. Can I have
5 your assurance?

6 PROSPECTIVE JUROR: Yes.

7 MS. RAJESWARI: How about you,
8 Mr. Nuzzolo?

9 PROSPECTIVE JUROR: Yes.

10 MS. RAJESWARI: Ms. Cacici.

11 PROSPECTIVE JUROR: Yes.

12 MS. RAJESWARI: Mr. Munshi.

13 PROSPECTIVE JUROR: Yes.

14 MS. RAJESWARI: Ma'am?

15 PROSPECTIVE JUROR: Yes.

16 MR. RAJESWARI: What about you, sir?

17 PROSPECTIVE JUROR: Yes.

18 MS. RAJESWARI: Is there anybody else who
19 can give me that assurance?

20 PROSPECTIVE JUROR: No problem.

21 MS. RAJESWARI: Ms. Centena?

22 PROSPECTIVE JUROR: Keep an open mind.

23 MS. RAJESWARI: Okay. Now Judge Rooney
24 has also spoke about punishment or sympathy. I am
25 not going to touch that again. I just want

1 everybody's assurance that if you are selected as
2 a juror you can put punishment and sympathy aside
3 and decide the case based on the evidence.

4 Can everybody here give me that
5 assurance? Is there anybody who cannot? Which is
6 fine if you can't but just let us know at this
7 time.

8 Anybody who cannot put the thought of
9 punishment or sympathy aside and give a fair
10 verdict in this case? Anybody who cannot make
11 that promise?

12 PROSPECTIVE JUROR: Me.

13 MS. RAJESWARI: You want to talk in
14 private?

15 PROSPECTIVE JUROR: Yes.

16 MS. RAJESWARI: Now there are jurors who
17 for a variety of reasons whether it's personal,
18 whether it's religious, whether it's social,
19 whether it's moral, cannot vote guilty no matter
20 what the evidence is. There is the hesitation to
21 convict. No matter what the People prove here, no
22 matter who we bring to the witness stand, they are
23 just not able to convict. There is a hesitation
24 based on various different reasons.

25 Is there anybody here who feels that way?

1 You feel that way?

2 PROSPECTIVE JUROR: Yes.

3 MS. RAJESWARI: No matter what the
4 evidence is you cannot convict?

5 PROSPECTIVE JUROR: Yes.

6 MS. RAJESWARI: Thank you for your
7 candor. I appreciate that.

8 Does anybody here agree with Mr. Cicala?
9 Does anybody here agree with him? This is the
10 time to let us know.

11 PROSPECTIVE JUROR: I agree.

12 MS. RAJESWARI: I would agree with that.

13 PROSPECTIVE JUROR: Yes.

14 MS. RAJESWARI: Other than -- could you
15 anybody else? By you not agreeing with him you
16 are giving me your assurance that if I prove my
17 case beyond a reasonable doubt according to the
18 standards the judge defined for you, you will be
19 able to vote guilty? Is that right?

20 PROSPECTIVE JUROR: Yes.

21 PROSPECTIVE JUROR: Yes.

22 MS. RAJESWARI: Now if there are any
23 issues that I haven't touched upon just because I
24 didn't think of it or the judge hasn't mentioned
25 it yet, is there anything else that would prevent

1 you from sitting as a fair juror for the People
2 and for Mr. Rucano in this case? Anything that I
3 haven't asked of you that you haven't maybe that
4 you've thought of? Is there any reason that will
5 prevent you from sitting in this case other than
6 what people have already said? And thank you so
7 much for your honesty and candor.

8 Anything else? Okay. If there is
9 nothing else I am going to thank you for your time
10 and your attention.

11 THE COURT: Mr. Lamb.

12 MR. LAMB: Thank you.

13 Good afternoon, ladies and gentlemen of
14 the jury, or good morning. We've been at this for
15 several days and it's getting a little tiresome
16 and a little redundant.

17 One of the nice things about being the
18 defense as far as jury selection is concerned by
19 the time it's time for me to ask you questions
20 most of the important questions have already been
21 asked of you, so my job is relatively easy.

22 I just want to touch on a few points that
23 were brought up by the judge and brought up by the
24 prosecution.

25 One of them is as far as deliberating.

1 The judge asked you if you could knowing that you
2 might have a difference of opinion from other
3 members of the jury, if you could nevertheless go
4 into the deliberation room at the end of the trial
5 and deliberate with other jurors. Now and he
6 indicated it is almost always the case there are
7 differences of opinions between the jurors.

8 THE COURT: I didn't say that.

9 MR. LAMB: I thought you did.

10 THE COURT: I said if they were selected
11 could they assure us they could deliberate with
12 eleven other people in an effort to reason
13 together. I am just pointing out I didn't say
14 that. You can pursue it if you want.

15 MR. LAMB: My only concern is this: Let
16 me ask Ms. Sawh, I'll pick you. Ms. Sawh, let's
17 say you go into the deliberation room. You have
18 heard all evidence. Now you are sent into the
19 deliberation room and you have a particular
20 feeling one way or the other about guilt or
21 innocence and you are the only one. And the other
22 eleven people in that room all disagree with you
23 and they're sort of saying, come on, come on, come
24 along with us. We can all go home, we can get an
25 early break here. But you feel in your heart and

1 in your conscience you are confident of your
2 opinion. Do you think you can stick to your guns?

3 PROSPECTIVE JUROR: Yes.

4 MR. LAMB: And face those eleven other
5 people?

6 PROSPECTIVE JUROR: Yes.

7 MR. LAMB: Is there anybody here who
8 feels they may have some difficulty doing that
9 having to face eleven other people and who may be
10 getting a little impatient with you because you
11 are holding up the works so-to-speak? Anybody
12 else here?

13 PROSPECTIVE JUROR: I would.

14 MR. LAMB: You would feel that --

15 PROSPECTIVE JUROR: I would feel pressure
16 I have to make a decision.

17 PROSPECTIVE JUROR: I would.

18 THE COURT: Step up, please.

19 (Discussion held off the record at the
20 bench.)

21 MR. LAMB: Other than Mr. Di Francesco
22 and Ms. Angelina, do I have the assurance of each
23 and every one of you that you will stick to your
24 guns and be true to your conscious and your
25 convictions if you are chosen as jurors?

1 MR. KATCHEN: Objection.

2 THE COURT: Sustained as to stick to your
3 guns. If you want to ask can they be true to
4 their convictions based on the findings of fact,
5 that's fine.

6 MR. LAMB: True to your convictions as
7 far as your decision as a juror, do I have that
8 assurance?

9 PROSPECTIVE JUROR: Still feeling
10 pressure from the other people to kind of side
11 with them.

12 MR. LAMB: Thank you.

13 Now you've heard the judge explain to you
14 that there is in this case as with every case
15 presumption of innocence. The defendant has the
16 right to be presumed innocent and the burden of
17 proof is on the People throughout the case. They
18 have to prove their case beyond a reasonable
19 doubt.

20 Now we're all sort of trained in society
21 to believe where there is competition there should
22 be kind of a level playing field, there should be
23 -- the sides should be even so-to-speak.

24 Is there anybody here who feels that
25 giving the defendant the benefit of the

1 presumption of innocence and forcing the District
2 Attorney to prove their case beyond a reasonable
3 doubt somehow gives the defendant unfair advantage
4 in a criminal case? Is there anybody who feels
5 that?

6 Do you all wholeheartedly accept the
7 proposition that the defendant as he sits there
8 right now has the right to be presumed innocent
9 and he can only be stripped of that presumption if
10 the People meet their burden of proof and prove
11 him guilty beyond a reasonable doubt?

12 Does everybody accept that principle of
13 law? You can all assure me what you will apply it
14 if you are selected as jurors?

15 Now you've gotten a little bit of a sense
16 what this case is about. This is not about
17 strangers. This isn't about the traditional
18 concept of a rape, some stranger hiding in the
19 bushes, drags a woman into the playground, molests
20 a child.

21 There was a relationship here. There was
22 the parties living together for several months in
23 a romantic relationship. A relationship as with
24 any relationship which has some dysfunctional
25 features in it.

1 MR. KATCHEN: Judge, may we approach?

2 THE COURT: No need to approach. Don't
3 get into any facts. We haven't started the trial
4 yet.

5 MR. LAMB: That this arises out of a
6 relationship which lasted several months between
7 the parties.

8 Is there anybody here that has
9 experienced such an event in a relationship which
10 was so traumatic or so painful that they feel that
11 perhaps because of that they may not be able to
12 listen to the evidence in this particular case in
13 a fair and objective way?

14 Ms. Gordon, something you want to discuss
15 privately?

16 PROSPECTIVE JUROR: I would rather
17 discuss it in private.

18 MR. LAMB: Yes. Ms. Zalewska.

19 PROSPECTIVE JUROR: Privately please.

20 MR. LAMB: We all -- almost all of us
21 have relationships with -- romantic relationships
22 at sometime or other in your lives. Sometimes
23 they're good and sometimes they're not so good and
24 sometimes they're so bad we are scarred for life.

25 I just want to make sure that we have

1 fair and objective jurors here to start out with
2 the case. Sometimes people's life experiences make
3 it impossible. There are certain circumstances
4 that make it impossible. That's the reason I am
5 asking this question. I am not asking this
6 question in order to pry or be nosey about your
7 business. I want to make sure my client gets a
8 fair trial here.

9 Would you care for us to listen to them
10 privately now?

11 THE COURT: No. When you are done.

12 MR. LAMB: Now you heard the judge also
13 indicate to you that the defendant doesn't have to
14 prove anything and he does not, he isn't required
15 to testify.

16 If the defendant in this case chooses not
17 to testify will any of you hold that against him
18 or feel he must be hiding something, or would you
19 draw some sort of negative inference from the fact
20 that he failed or chose not to take the stand?

21 You feel that you need to hear from him
22 before you could make a decision as to guilt or
23 innocence? Anybody here who feels that way?

24 Yes, Mr. Fennell.

25 PROSPECTIVE JUROR: Yes. I feel if I was

1 defending myself I would want to speak up for
2 myself.

3 THE COURT: Despite that, could you
4 accept the law as I give it to all of you in a
5 little while if the defendant does not testify in
6 a criminal trial that's not a factor from which
7 any inference unfavorable to such defendant could
8 be drawn.

9 PROSPECTIVE JUROR: I was telling him
10 that I would feel like I'd have to defend myself.
11 I wouldn't hold it against him but I am just
12 saying that personally I would.

13 THE COURT: But you can accept the law?

14 PROSPECTIVE JUROR: I could accept it.

15 THE COURT: He can implicate himself by
16 saying the wrong thing. But you could accept the
17 law, that's the bottom line.

18 PROSPECTIVE JUROR: Yes.

19 MR. LAMB: Ms. Angelina.

20 PROSPECTIVE JUROR: I can accept the law.

21 MR. LAMB: You could. Okay.

22 And if he does choose to testify, now he
23 is the defendant, obviously he is the one who
24 stands to lose the most in this case, are you
25 going to reject everything he says or just close

1 your minds to everything he says or do I have your
2 assurance that you will listen just as carefully
3 and just as patiently and just as fairly to what
4 he has to say as you do with any other witness
5 that testifies here? Can you assure me of that?
6 Can all of you assure me of that?

7 Ladies and gentlemen, one last question.
8 Do I have the assurance of each and every one of
9 you that if you are chosen as a juror here today
10 that you will give my client the same fair trial
11 that you would want if you were sitting where he
12 is sitting?

13 MR. KATCHEN: Objection, Judge.

14 THE COURT: Overruled.

15 MR. LAMB: Do I have that assurance from
16 each and every one of you?

17 Thank you very much.

18 THE COURT: We are going to step to the
19 side to talk to a few people and then I will tell
20 you what happens after that. We'll set up over
21 here and talk to three people I think.

22 (The following took place at the
23 sidebar:)

24 THE COURT: Sidebar with the lawyers. I
25 understand your client does not want to be here

1 for that.

2 MR. LAMB: That's correct.

3 THE COURT: Ms. Zalewska, could you step
4 over please?

5 (Prospective juror approached.)

6 THE COURT: Ms. Zalewska, it was a
7 question you asked.

8 MR. LAMB: I asked if anybody had been in
9 a relationship, difficult relationship.

10 PROSPECTIVE JUROR: I was married for a
11 few years and it was abusive marriage. Not
12 physically abusive but verbal.

13 THE COURT: Would this prevent you from
14 being able to be a fair and impartial juror in
15 this case or not?

16 PROSPECTIVE JUROR: I am not sure. I
17 think not but --

18 THE COURT: Any other questions?

19 MR. LAMB: No.

20 PROSPECTIVE JUROR: One more thing I
21 would like to say. My English is my second
22 language and I am afraid maybe situation I may not
23 understand everything.

24 THE COURT: Okay. Thank you. You may
25 resume your seat.

1 Ms. Bradshaw, could you step over please?

2 (Prospective juror approached sidebar.)

3 THE COURT: Hi, Ms. Bradshaw.

4 PROSPECTIVE JUROR: Not even three weeks

5 my brother tried to rape my sister. She got

6 charged with assault. She slapped him. Has to go

7 back to court, criminal court on Targee.

8 THE COURT: Is this the kind of thing

9 that would affect your ability to be fair in this

10 case?

11 PROSPECTIVE JUROR: I think it would

12 because I am siding with her because she gets

13 arrested assaulting him trying to protect herself.

14 THE COURT: Counsellors, any questions?

15 MR. LAMB: No.

16 THE COURT: Counsellor?

17 MR. KATCHEN: No.

18 THE COURT: Thank you, Ms. Bradshaw. I

19 will let you resume your seat.

20 Ms. Gordon, could you step over please?

21 (Prospective juror approached sidebar.)

22 THE COURT: This is Ms. Gordon.

23 PROSPECTIVE JUROR: Yes.

24 THE COURT: I think you are here in

25 response to Mr. Lamb's question, relationship,

1 prior relationship.

2 PROSPECTIVE JUROR: Yes. I had a
3 relationship about four years ago that was bad
4 from the beginning and continued going down hill
5 to the point I had to take out an order of
6 protection. Matter of fact, I keep the papers in
7 my car. He is not in the state at the moment, but
8 it was not good.

9 THE COURT: Would this prevent you from
10 being able to sit here as a fair and impartial
11 juror?

12 PROSPECTIVE JUROR: It would be very,
13 very difficult because I was in a relationship
14 with this gentleman for about three years. I
15 couldn't even understand myself how I went from
16 where I was and why I was still in it. It would
17 make it difficult for me.

18 THE COURT: Questions?

19 MR. LAMB: No questions.

20 MR. KATCHEN: No.

21 THE COURT: Thank you, ma'am. I will let
22 you resume your seat.

23 Yes, sir.

24 (Prospective juror approached sidebar.)

25 THE COURT: This is Jusino.

1 It's Mr. Nuzzolo.

2 PROSPECTIVE JUROR: I want to say I had
3 my hand up before. I was willing to accept the
4 law. One thing I feel strongly if I was a
5 defendant life is on the line I would want to take
6 the stand.

7 THE COURT: I guess that's how you feel.
8 I am certainly not going to argue with you. But
9 as Mr. Lamb made clear, his client doesn't have to
10 testify. If he does not that's not a factor from
11 which any inference unfavorable to such defendant
12 may be drawn.

13 If you can accept that and apply that
14 depending how this trial works out, that's fine.
15 If you can't tell us we want to know how you feel.

16 PROSPECTIVE JUROR: Maybe I wouldn't
17 accept it. I would feel one hundred percent I
18 would take the stand.

19 THE COURT: Questions?

20 MR. LAMB: No.

21 THE COURT: Thank you. You may resume
22 your seat.

23 (The following took place in open court:)

24 THE COURT: What we're going to do at
25 this point is give the lawyers a few minutes to go

1 over their notes and then I will step back here
2 and deal with jury selection. This will probably
3 take five to ten minutes. If you would like to
4 step out for a little while feel free or you can
5 stay right where you are. But don't discuss the
6 case with each other or anyone else. Thank you
7 for your patience.

8 (Pause in proceedings.)

9 (The following took place at the
10 sidebar:)

11 THE COURT: We are at a sidebar with the
12 lawyers and the defendant. Let me make a brief
13 record.

14 Mr. Rucano is exercising his Antommarchi
15 selectively. I just want the record to be clear
16 that we haven't abused it.

17 MR. LAMB: Yes, he is here for me to
18 state, if I am stating this accurately, he has
19 chosen not to be present during the times when
20 jurors are talking private.

21 THE DEFENDANT: I don't want to be in
22 anybody's private stuff.

23 MR. LAMB: He just --

24 THE DEFENDANT: As a courtesy to the
25 jurors.

1 MR. LAMB: -- the selection process.

2 THE COURT: That's fine. He can choose
3 to be present at sidebars selectively. There is
4 nothing wrong with that. I just want to make it
5 clear that what's happening. His Antommarchi
6 rights have not been abrogated.

7 MR. LAMB: I don't believe they have
8 been in any fashion or form.

9 THE COURT: What do we have? Seven?

10 THE CLERK: Seven sworn.

11 THE COURT: Keep in mind Number 4 wants
12 to talk to us about anxiety at 2 p.m. So I don't
13 know what that means. Just keep that in mind. We
14 will go one at a time.

15 Ms. Zalewska, cause People?

16 MR. KATCHEN: No.

17 THE COURT: Defense?

18 MR. LAMB: Yes. She said she couldn't be
19 sure that she could be fair and she had difficulty
20 with the language.

21 THE COURT: She did say that. That
22 challenge is granted.

23 Next is Mr. Martin. Cause People?

24 MR. KATCHEN: No.

25 THE COURT: Defense?

1 MR. LAMB: No.

2 THE COURT: Peremptory People?

3 MR. KATCHEN: Yes.

4 THE COURT: Next is Di Francesco. Cause
5 People?

6 MR. KATCHEN: Yes, Judge.

7 THE COURT: Mr. Lamb?

8 MR. LAMB: Consent.

9 THE COURT: For cause on consent.

10 Next is Ms. Hyrick. Cause People?

11 MR. KATCHEN: No.

12 THE COURT: Defense?

13 MR. LAMB: No.

14 THE COURT: Peremptory People?

15 MR. KATCHEN: No.

16 THE COURT: Defense?

17 MR. LAMB: No.

18 THE COURT: Hyrick becomes Number 8.

19 MS. RAJESWARI: She corrected it.

20 THE CLERK: I have her card as

21 H Y R I C K. Juror Number 8.

22 THE COURT: Next is -- we're all set?

23 MR. LAMB: Yes.

24 THE COURT: Mr. Jusino. Cause People?

25 MR. KATCHEN: No.

1 THE COURT: Defense?

2 MR. LAMB: No.

3 THE COURT: Peremptory People?

4 MR. KATCHEN: No.

5 THE COURT: Perempt defense?

6 MR. LAMB: Yes.

7 THE COURT: Next is Ms. Bradshaw. Cause
8 People?

9 MR. KATCHEN: We'll consent.

10 MR. LAMB: Consent.

11 THE COURT: You are making a cause?

12 MR. LAMB: Cause.

13 THE COURT: For cause. Consent on both
14 sides granted.

15 Next is Ms. Gordon. Cause People?

16 MR. KATCHEN: Same. I think we're in the
17 same situation.

18 THE COURT: Mr. Lamb, are you making a
19 cause challenge?

20 MR. LAMB: Yes.

21 THE COURT: For cause on consent.

22 Next is Mr. Cicala. Cause People?

23 MR. KATCHEN: Yes.

24 THE COURT: What's your position?

25 MR. LAMB: No. But I agree he said he

1 could not possibly --

2 THE COURT: He said he couldn't convict.
3 If you want to amplify your record, go ahead.

4 MR. LAMB: No, I won't.

5 THE COURT: That cause challenge is
6 granted.

7 Next is Ms. Sawh. Cause People?

8 MR. KATCHEN: No.

9 THE COURT: Defense?

10 MR. LAMB: No.

11 THE COURT: Peremptory People?

12 MR. KATCHEN: No.

13 THE COURT: Defense?

14 MR. LAMB: Yes.

15 THE COURT: Next is Ms. Centeno. Cause
16 People?

17 MR. KATCHEN: No.

18 THE COURT: Defense?

19 MR. LAMB: No.

20 THE COURT: Peremptory People?

21 MR. KATCHEN: No.

22 THE COURT: Defense?

23 MR. LAMB: Yes.

24 THE COURT: Next is Mr. Munshi. Cause
25 People?

1 MR. KATCHEN: No.

2 THE COURT: Defense?

3 MR. LAMB: No.

4 THE COURT: Peremptory People?

5 MR. KATCHEN: No.

6 THE COURT: Defense?

7 MR. LAMB: No.

8 THE COURT: So, Carmine, he becomes

9 Number 9.

10 THE CLERK: Yes, sir.

11 THE COURT: Next is Ms. Cacici. Cause

12 People?

13 MR. KATCHEN: No.

14 THE COURT: Defense?

15 MR. LAMB: No.

16 THE COURT: Peremptory People?

17 MR. KATCHEN: No.

18 THE COURT: Defense?

19 MR. LAMB: No.

20 THE COURT: So she becomes Number 10,

21 Carmine.

22 PROSPECTIVE JUROR: Yes, sir.

23 THE COURT: Next is Mr. Nuzzolo. Cause

24 People?

25 MR. KATCHEN: No, but I will consent.

1 MR. LAMB: Yes, for cause.

2 THE COURT: So defense is making a cause
3 challenge and the People are consenting?

4 MR. KATCHEN: Yes.

5 THE COURT: Granted.

6 Next is Ms. Angelino. Cause People?

7 MR. KATCHEN: No.

8 THE COURT: Defense?

9 MR. LAMB: Yes. She indicated she wasn't
10 sure she would want to hear from the defendant I
11 believe.

12 MR. KATCHEN: She said she could accept
13 the law.

14 THE DEFENDANT: She admitted she was
15 going to be pressured.

16 MR. LAMB: It was the pressure. She was
17 with the pressure. She said --

18 THE DEFENDANT: She would submit to the
19 pressure.

20 MR. LAMB: To any pressure.

21 MR. KATCHEN: That's an unfair question.

22 MR. LAMB: I didn't ask 11/1. I just --

23 THE COURT: I will grant the challenge.

24 Next is Mr. Nichols. Cause People?

25 MR. KATCHEN: No.

1 THE COURT: Cause defense?

2 MR. LAMB: No.

3 THE COURT: Peremptory People?

4 MR. KATCHEN: No.

5 THE COURT: Defense?

6 MR. LAMB: No.

7 THE COURT: That's Juror Number 11,
8 Carmine?

9 PROSPECTIVE JUROR: Yes, Judge.

10 THE COURT: Finally, Mr. Fennell. Cause
11 People?

12 MR. KATCHEN: No.

13 THE COURT: Defense?

14 MR. LAMB: Yes.

15 THE COURT: What's the basis?

16 MR. LAMB: He said several times he
17 couldn't be fair. He had to hear from my client.

18 THE COURT: He said that?

19 THE DEFENDANT: She said do you think you
20 could be fair and he said I don't think.

21 MR. KATCHEN: I rehabilitated and said he
22 could follow the law.

23 THE COURT: Only thing he had a bad jury
24 experience but then People's voir dire he
25 indicated that the people -- and I intervened, if

1 he had a jury of people who paid attention that
2 would be all right with him. What else did he
3 say?

4 MR. LAMB: I pressed him about whether my
5 client -- whether the defendant should testify or
6 not and he would have to hear from him.

7 THE COURT: Let's bring him over. Is
8 that all right?

9 Mr. Fennell, could you step over a minute
10 please? Mr. Fennell, could you step over here a
11 minute please? I just want to ask you a question.

12 (Prospective juror approached the
13 sidebar.)

14 THE COURT: We're just trying to remember
15 -- this is Mr. Fennell. We're trying to remember
16 something you may or may not have said. I frankly
17 don't recall. Mr. Lamb voir dired the jury on
18 whether or not they could accept the fact that the
19 defendant didn't have to testify and if he did not
20 whether they could agree with the law that the
21 jury draw no inference unfavorable to a defendant
22 if he didn't testify. What's your position on
23 that?

24 PROSPECTIVE JUROR: My position would be
25 I'm impartial, but I frown upon it. I could still

1 be fair, but I frown upon it. Me personally I
2 would want to defend myself. I know it's tough
3 for people to take the stand. I frown upon it but
4 I am still impartial towards it.

5 THE COURT: Any questions?

6 MR. KATCHEN: No.

7 PROSPECTIVE JUROR: I just have one
8 thing. September 22nd I have a court deposition.
9 I wonder if that was going to interfere.

10 THE COURT: This is in connection with a
11 civil case of some sort?

12 PROSPECTIVE JUROR: Well, I had a DWI in
13 2007 and I have to appear for a court deposition
14 September 22nd. Otherwise it gets delayed again.
15 It's been delayed twice already.

16 THE COURT: I think what I will say is
17 this. If you end up on this jury we'll make sure
18 you make your deposition.

19 PROSPECTIVE JUROR: Thanks.

20 (Prospective juror left the sidebar.)

21 THE COURT: Anybody want to be heard
22 further?

23 MS. RAJESWARI: Judge, he still said that
24 he frowns upon it, but he could be impartial.

25 MR. LAMB: Continuing to frown upon it.

1 MS. RAJESWARI: He can follow the law.

2 He gave an answer.

3 THE COURT: I view that as less than an
4 unequivocal response. He reiterated I would frown
5 upon it. I think it's for me to grant a cause
6 challenge. Are you still making it?

7 MR. LAMB: Yes.

8 THE COURT: Granted. We'll swear these
9 people in and tell them to be back at two and try
10 to get another round in before lunch.

11 THE CLERK: The People used ten.
12 Defense used eleven.

13 (The following took place in open court:)

14 THE CLERK: The following jurors have
15 been selected for this case: Christine Hyrick,
16 you're Juror Number 8. Bashir Munshi, you are
17 Juror Number 9. Suzanna Cacici, you are Juror
18 Number 10. And Gregory Nichols, you are Juror
19 Number 11. If I called your name remain seated.

20 If I did not, please stand, go across the
21 street to central jury for your next trial. Thank
22 you.

23 (Prospective jurors not chosen left the
24 courtroom.)

25 THE CLERK: Jurors in the box stand.

1 Please raise your right hand to be sworn as trial
2 jurors.

3 Do you and each of you solemnly swear
4 that you will try this action in a just and
5 impartial manner and to the best of your judgment
6 render a verdict according to the law and the
7 evidence so help you God?

8 JURORS: Yes.

9 THE COURT: You can have a seat for just
10 a minute and I will give you some instructions.

11 We are going to continue selecting. We
12 need a few more people. We anticipate starting
13 the trial this afternoon. So what I am going to
14 ask you all to do is be in the jury room which is
15 right across the hall, the officers will show you
16 where it is on your way out, at 2 p.m. The other
17 jurors will be there at 2 p.m. I expect we will
18 have a jury at that time and begin the trial.

19 But I must instruct you before you leave
20 as follows: Do not discuss this case with each
21 other or any other juror or with anyone else. You
22 simply not must not talk about the case until you
23 begin deliberations at the end of the trial.

24 Second, prior to being discharged you
25 must not speak with anyone about taking anything,

1 any payment or benefit in return for supplying
2 information concerning this trial.

3 Third, report directly to me please any
4 incident within your knowledge involving an
5 attempt by anybody to improperly influence you or
6 any member of the jury.

7 Don't visit or view the premises where
8 any charged crime is committed. I don't believe
9 you heard any. Don't visit any such premises or
10 place. Don't read, view or listen to any media
11 accounts involving this case should there be any.
12 That includes the Internet. Don't attempt to
13 research any fact, issue or law related to this
14 case on your own.

15 And, finally, don't form any opinion,
16 continue to keep an open mind until you begin your
17 deliberations at the end of the case.

18 Thank you very much for agreeing to
19 serve. We'll see you at 2 p.m. The officers will
20 show you the jury room on your way out.

21 (Four sworn jurors left the courtroom.)

22 THE CLERK: Seat one, step up. Laurie
23 Batwin. B A T W I N. Seat one.

24 Seat number two, step up. Jennifer
25 Cifelli. C I F E L L I.

1 Seat three, Mary Ellen Varone.

2 B A R O N E.

3 Seat four. Amardeep Gill. G I L L.

4 Seat five. Greg Matthius.

5 M A T T H I U S.

6 Seat six, first name letter J. Last name
7 Dellauniversita. Is that hyphenated?

8 PROSPECTIVE JUROR: No. Joanne.

9 THE CLERK: J O A N N E. Last name is
10 D E L L A U N I V E R S I T A. Seat six.

11 Seat seven. Risoky Skalny. S K A L N Y.

12 Seat eight. Lisa Martinez.

13 M A R T I N E Z.

14 Seat number nine. Charles Beckett.

15 B E C K E T T.

16 Seat ten, Felicia Matos. M A T O S.

17 Seat eleven. Fabiola Carbajal.

18 C A R B A J A L.

19 Seat twelve, Peter Tam. T A M.

20 Seat thirteen, Arcelius Pizarro.

21 P I Z A R R O.

22 Seat fourteen, Sopat Te. Last name T E.

23 Seat fifteen, Susan Thomas. T H O M A S.

24 Seat sixteen, Leana Pasynkova.

25 P A S Y N K O V A. Seat sixteen.

1 Sixteen prospective jurors seated.

2 THE COURT: Okay. My questions don't
3 change. So I will just launch into this.

4 Do any of you think you know anything
5 about this case apart from what you've heard in
6 court this morning?

7 Do any of you know the lawyers or the
8 defendant?

9 I read a list of potential witnesses
10 earlier. I will read it again if anybody wants me
11 to.

12 Did you recognize any of the names?
13 Maybe you want to hear the names again?

14 Are any of you or anyone close to you
15 involved or have you been involved in law
16 enforcement in any capacity?

17 One. Mr. Matthius, who do you know?

18 PROSPECTIVE JUROR: Retired detective.

19 THE COURT: You are?

20 THE DEFENDANT: Yes.

21 THE COURT: How long were you on the job?

22 PROSPECTIVE JUROR: 18 years.

23 THE COURT: How long ago did you retire?

24 PROSPECTIVE JUROR: Two and a half years
25 ago.

1 THE COURT: Anything about your
2 background, training and experience as a police
3 officer, detective that would prevent you from
4 being a fair juror?

5 PROSPECTIVE JUROR: I have dealt with
6 rape cases before, interrupted a rape in progress.
7 Co-worker was raped and murdered, left on the side
8 of the road. I am going to be a little biased
9 probably.

10 THE COURT: Do you want to deal with this
11 right now? Might as well.

12 MR. LAMB: I would consent.

13 MR. KATCHEN: People would consent.

14 THE COURT: Okay, we're going to excuse
15 you, Mr. Matthius. It's probably better you get
16 on another kind of case. You can step out.

17 We'll fill that seat, counsels?

18 MS. RAJESWARI: Yes.

19 MR. LAMB: Yes.

20 THE CLERK: Am I filling that seat?

21 THE COURT: Put somebody else into that
22 seat. You don't have to move anybody.

23 MR. LAMB: That's fine.

24 MS. RAJESWARI: Yes.

25 MR. LAMB: Young lady has her hand up

1 also.

2 THE CLERK: One thing at a time.

3 PROSPECTIVE JUROR: I said I work for a
4 law firm.

5 THE COURT: I'll get to that shortly.

6 THE CLERK: Take seat five, step up.
7 Shirley Fernandez. Seat five.

8 THE COURT: Ms. Fernandez, let me get you
9 up to speed. Do you think you know anything about
10 this case aside from what you heard in court
11 today?

12 PROSPECTIVE JUROR: No.

13 THE COURT: Do you know the lawyers or
14 the defendant?

15 PROSPECTIVE JUROR: No.

16 THE COURT: Did you recognize the names
17 of any of those potential witnesses I read
18 earlier?

19 PROSPECTIVE JUROR: No.

20 THE COURT: Did I get everybody in that
21 last question? I think I did.

22 This is Ms. Varone. You know somebody?

23 PROSPECTIVE JUROR: No. I knew a cop.

24 THE COURT: Okay. Well, that's my
25 question we've got going right now.

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: I think Ms. Fernandez is up
3 to speed. The question pending is are any of you
4 or anyone close to you involved in law
5 enforcement?

6 Ms. Varone, you have an affirmative
7 answer on that?

8 PROSPECTIVE JUROR: I just knew someone
9 that was a policeman that's retired.

10 THE COURT: Is there anything about that
11 relationship friendship that would prevent you
12 from being fair?

13 PROSPECTIVE JUROR: No.

14 THE COURT: Thank you.

15 Anyone else on this? Law enforcement?
16 Ms. Pasyukova.

17 PROSPECTIVE JUROR: My son is a police
18 officer.

19 THE COURT: New York City police officer?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Is there anything that would
22 prevent you from being fair to both sides?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Anyone else on this question?
25 Ms. Matos.

1 PROSPECTIVE JUROR: Yes. My ex husband
2 is a correction officer.

3 THE COURT: Your ex husband is a police
4 officer?

5 PROSPECTIVE JUROR: Yes.

6 THE COURT: Is there anything about that
7 that would prevent you from being a fair juror in
8 this case?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: I will let the lawyers talk
11 to you further if they want on that.

12 I saw another hand I think. Ms. Pizarro.

13 PROSPECTIVE JUROR: My husband is a
14 retired detective.

15 THE COURT: How long ago did he retire?

16 PROSPECTIVE JUROR: About eight years
17 now.

18 THE COURT: Is there anything about his
19 former occupation that would prevent you from
20 being fair?

21 PROSPECTIVE JUROR: No, I don't think so.

22 THE COURT: Anyone else?

23 Are any of you or anyone close to you
24 involved in the legal field in any way as a
25 lawyer, paralegal, employee of a law firm or

1 prosecutor's office?

2 This is Ms. Dellauniversita.

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Who do you know in the legal
5 field?

6 PROSPECTIVE JUROR: I am a legal
7 secretary.

8 THE COURT: For a law firm?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Is the firm practicing any
11 criminal law?

12 PROSPECTIVE JUROR: No. It's a large
13 firm SCC pro bono and prisoner's rights.

14 THE COURT: Have you ever worked on any
15 pro bono cases?

16 PROSPECTIVE JUROR: They come through me,
17 yes.

18 THE COURT: Is there anything about your
19 experience in this regard that would prevent you
20 from being a fair juror here?

21 PROSPECTIVE JUROR: No.

22 THE COURT: Anyone else on this question?
23 Nobody. Ms. Varone.

24 PROSPECTIVE JUROR: I have a friend that
25 works for lawyers.

1 THE COURT: Friend that what?

2 PROSPECTIVE JUROR: She works for
3 lawyers, secretary to lawyers in Manhattan.

4 THE COURT: You know if she's involved in
5 any criminal law?

6 PROSPECTIVE JUROR: Not that I know of.
7 I am not sure.

8 THE COURT: Am I safe in saying that
9 wouldn't have any bearing here in terms your
10 ability to be fair?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Okay. Anyone else on this
13 question? Ms. Pasyukova.

14 PROSPECTIVE JUROR: I work for a law
15 firm.

16 THE COURT: You work for a law firm?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: What kind of law is the firm
19 involved in?

20 PROSPECTIVE JUROR: Immigration, not
21 criminal.

22 THE COURT: Litigation, not criminal.

23 PROSPECTIVE JUROR: I am a legal
24 secretary.

25 THE COURT: Anything about your

1 occupation that would prevent you from being fair?

2 PROSPECTIVE JUROR: No.

3 THE COURT: Thank you. Anyone else on
4 this question? Mr. Skalny.

5 PROSPECTIVE JUROR: Yes, I have a problem
6 speak English here. I don't understand.

7 THE COURT: Okay. We'll get to you
8 shortly on that issue.

9 Counsellors, keep that in mind all right?

10 PROSPECTIVE JUROR: I'm sorry.

11 THE COURT: That's all right. I think
12 we're through with the legal field.

13 Next question we can talk privately.

14 Have any of you or anyone close to you to your
15 knowledge ever been a defendant in any kind of a
16 criminal proceeding? Nobody on that.

17 Is your hand up Ms. Varone or not? I
18 can't tell. If there is something you want to
19 talk about privately we'll do that.

20 PROSPECTIVE JUROR: All right. I'll talk
21 about it.

22 THE COURT: We'll talk to you shortly.

23 Ms. Dellauniversita, you want to talk
24 privately?

25 PROSPECTIVE JUROR: Yes, please.

1 THE COURT: Anybody else?

2 Ms. Pizarro? Privately?

3 PROSPECTIVE JUROR: Yes.

4 THE COURT: Ms. Carbajal, you want to
5 talk privately?

6 PROSPECTIVE JUROR: Yes.

7 THE COURT: Have any of you been a
8 witness in any kind of a courtroom proceeding?
9 Have any of you been a litigant, that is a
10 plaintiff or a defendant, in any kind of a civil
11 lawsuit or civil action?

12 Have any of you ever served? Is your
13 hand up?

14 PROSPECTIVE JUROR: Yes, it was up
15 before.

16 THE COURT: This is Ms. Matos.

17 PROSPECTIVE JUROR: I testified in the
18 Grand Jury for a case that I was personally
19 involved in.

20 THE COURT: Richmond County or somewhere
21 else?

22 PROSPECTIVE JUROR: It was actually
23 Brooklyn, Kings County.

24 THE COURT: How long ago was that?

25 PROSPECTIVE JUROR: That had to be around

1 twelve years ago.

2 THE COURT: Was there anything about that
3 experience that would prevent you from being a
4 fair trial juror?

5 PROSPECTIVE JUROR: No.

6 THE COURT: Thank you.

7 Anyone else on this question?

8 The question pending is have any of you
9 ever been a plaintiff or defendant in any kind of
10 a civil matter? I guess nobody has.

11 Have any of you ever served on a jury
12 before?

13 Mr. Beckett, can you tell me when, sir,
14 approximately?

15 PROSPECTIVE JUROR: About two years ago.

16 THE COURT: Was it civil?

17 PROSPECTIVE JUROR: Civil.

18 THE COURT: Did the jury reach a verdict?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Was there anything about that
21 experience that would prevent you from being able
22 to sit in this case?

23 PROSPECTIVE JUROR: No.

24 THE COURT: Ms. Varone, when were you on
25 a jury?

1 PROSPECTIVE JUROR: About ten years ago.

2 THE COURT: Was it civil or criminal

3 case?

4 PROSPECTIVE JUROR: Criminal.

5 THE COURT: Don't tell us how it ended up

6 but do tell me did the jury reach a verdict?

7 PROSPECTIVE JUROR: Yes, they did.

8 THE COURT: Anything about that

9 experience that would prevent you from being able

10 to sit as a juror in this case?

11 PROSPECTIVE JUROR: No.

12 THE COURT: I saw another hand.

13 Ms. Carbajal, when?

14 PROSPECTIVE JUROR: About fifteen years

15 ago.

16 THE COURT: Criminal or civil?

17 PROSPECTIVE JUROR: Criminal.

18 THE COURT: Don't tell us how it ended

19 up but did the jury reach a verdict?

20 PROSPECTIVE JUROR: Yes.

21 THE COURT: Was there anything about that

22 experience that would prevent you from being able

23 to sit as a juror in this case?

24 PROSPECTIVE JUROR: I think so.

25 THE COURT: You think so.

1 PROSPECTIVE JUROR: Yeah.

2 THE COURT: I am not going to question
3 you on it. The lawyers might want to talk to you
4 about it. We are going to talk to you at the side
5 anyway. Remind me to ask you about that then.

6 Anyone else with any jury experience?

7 Ms. Pizarro, when were you on a jury?

8 PROSPECTIVE JUROR: About maybe twelve
9 years. Civil.

10 THE COURT: Civil. Did the jury reach a
11 verdict?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Was there anything about that
14 experience that would prevent you from being able
15 to sit as a juror in this case?

16 PROSPECTIVE JUROR: No.

17 THE COURT: Anyone else?

18 Have any of you ever served on a grand
19 jury? Okay.

20 Ms. Batwin, are you employed?

21 PROSPECTIVE JUROR: Self-employed.

22 THE COURT: What type of work?

23 PROSPECTIVE JUROR: Wedding videographer.

24 THE COURT: Thank you.

25 Ms. Cifelli, are you working?

1 PROSPECTIVE JUROR: Yes.

2 THE COURT: What type of work?

3 PROSPECTIVE JUROR: Pharmacy.

4 THE COURT: Ms. Varone?

5 PROSPECTIVE JUROR: No, I am not.

6 THE COURT: Thank you.

7 Mr. Gill.

8 PROSPECTIVE JUROR: Unemployed.

9 THE COURT: Thank you.

10 Ms. Fernandez.

11 PROSPECTIVE JUROR: Retired.

12 THE COURT: From what please?

13 PROSPECTIVE JUROR: Bank of New York.

14 THE COURT: Thank you.

15 Ms. Dellauniversita.

16 PROSPECTIVE JUROR: Legal secretary.

17 THE COURT: Thank you, that's right. You
18 told me. Mr. Skalny.

19 PROSPECTIVE JUROR: Carpenter.

20 THE COURT: Thank you.

21 Ms. Martinez.

22 PROSPECTIVE JUROR: Accountant.

23 THE COURT: Thank you.

24 Ms. Pasynkova.

25 PROSPECTIVE JUROR: Information

1 technology.

2 THE COURT: Thank you.

3 Ms. Thomas.

4 PROSPECTIVE JUROR: I work for New York

5 City.

6 THE COURT: New York City what

7 department?

8 PROSPECTIVE JUROR: Legal.

9 THE COURT: Mr. Te.

10 PROSPECTIVE JUROR: I work in hotel.

11 THE COURT: Hotel. I see, thank you very

12 much. Sorry, I misunderstood.

13 Ms. Pizarro.

14 PROSPECTIVE JUROR: Telephone operator.

15 THE COURT: Thank you.

16 Mr. Tam.

17 PROSPECTIVE JUROR: Post office.

18 THE COURT: Thank you.

19 Ms. Carbajal.

20 PROSPECTIVE JUROR: Secretary in legal

21 firm.

22 THE COURT: Thank you.

23 Ms. Matos.

24 PROSPECTIVE JUROR: Baby-sit in my home.

25 THE COURT: Thank you.

1 And Mr. Beckett.

2 PROSPECTIVE JUROR: Postal worker.

3 THE COURT: Thank you all for that
4 information. Let me go through these legal
5 principles again. I am going to paraphrase where
6 I can because you already heard them once and
7 again this is just to remind you the idea here is
8 to find out if you can promise us you will accept
9 these principles in our law. If you cannot accept
10 any of them please tell us. It's important we
11 know how you feel.

12 I have mentioned the indictment. The
13 indictment is the instrument that contains the
14 charges. The mere fact the defendant has been
15 indicted is not evidence of anything and in
16 particular it's not evidence of guilt.

17 Is there anybody amongst you who cannot
18 accept this principle in our criminal law?

19 If selected as a juror here at the end of
20 the trial you would be called upon to deliberate
21 with eleven other people in an effort to reach a
22 final unanimous verdict or verdicts.

23 Do any of you feel you could not
24 deliberate with eleven other people if called upon
25 to do so?

1 Ms. Fernandez. You haven't been a juror
2 before, right?

3 PROSPECTIVE JUROR: No.

4 THE COURT: What's your feeling?

5 PROSPECTIVE JUROR: Can I talk to you
6 about it in private?

7 THE COURT: Yes.

8 Anyone else on that issue?

9 Under our law everyone accused of a crime
10 and brought to trial is presumed innocent unless
11 or until he is proved guilty beyond a reasonable
12 doubt. The defendant in this case is presumed
13 innocent and to put this another way a defendant
14 is never required to prove his innocence.

15 On the contrary, the People represented
16 by the District Attorney having accused the
17 defendant of the crimes charged have the burden of
18 proving him guilty beyond a reasonable doubt. The
19 People carry this burden of proof throughout the
20 trial. It never shifts. It always remains on the
21 People. And the presumption of innocence remains
22 with every defendant throughout every criminal
23 trial.

24 Is there anyone amongst you who cannot
25 now in your own mind grant the defendant this